

FEB 23 89

Texas Register

Volume 14, Number 15, February 24, 1989

Pages 961-1010

In This Issue...

Attorney General

Open Records Decisions

971-ORD-518 (RQ-1489)

971-ORD-519 (RQ-1544)

Emergency Sections

Comptroller of Public Accounts

973-Tax Administration

Employees Retirement System of Texas

973-Insurance

Proposed Sections

State Finance Commission

975-Banking Section

Railroad Commission of Texas

975-Liquefied Petroleum Gas Division

Texas Education Agency

980-Curriculum

980-Education Personnel Development

Texas Commission on Alcohol and Drug Abuse

981-General Provisions

Withdrawn Sections

Railroad Commission of Texas

983-Liquefied Petroleum Gas Division

Public Utility Commission of Texas

983-Practice and Procedure

983-Substantive Rules

Board of Private Investigators and Private Security Agencies

983-Training Programs

Texas Water Development Board

984-Introductory Provisions Memorandum of Understanding

Adopted Sections

Office of the Governor

985-Criminal Justice Division

Texas Higher Education Coordinating Board

985-Student Services

State Board of Insurance

986-Continuing Care Retirement Facilities

Texas Department of Human Services

992-Community Care for Aged and Disabled

993-Child Protective Services

995-Memoranda of Understanding with Other State Agencies

Open Meetings

996-Texas Department of Agriculture

996-Texas Commission on Alcohol and Drug Abuse

996-State Board of Barber Examiners

996-Texas Department of Commerce-Tourism Division

996-Texas Cosmetology Commission

996-Daughters of the Republic of Texas, Inc.

997-Texas State Board of Dental Examiners

997-Interagency Council on Early Childhood Intervention

997-Texas Education Agency

997-Advisory Commission on State Emergency Communications

997-Employees Retirement System of Texas

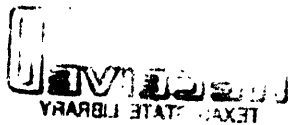
998-Texas Department of Health

998-State Department of Highways and Public Transportation

998-Texas Hospital Equipment Financing Council

998-Texas Housing Agency

CONTENTS CONTINUED INSIDE



REGISTRATION

98 2 S RR Texas Register

The *Texas Register* (ISSN 0362-4781) is published twice each week 100 times a year except March 7, 1989, June 2, 1989, July 7, 1989, November 28, 1989, and December 29, 1989. Issues will be published by the Office of the Secretary of State.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Texas Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

Information Available: The eight sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor—appointments, executive orders, and proclamations

Attorney General—summaries of requests for opinions, opinions, and open records decisions

Emergency Sections—sections adopted by state agencies on an emergency basis

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections—sections adopted following a 30-day public comment period

Open Meetings—notices of open meetings

In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3."

How To Research: The public is invited to research rules and information; of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How To Cite: Under the TAC scheme, each agency section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).



Texas Register Publications

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5561

Jack M. Rains Secretary of State

Director

Dan Procter

Assistant Director

Dee Wright

Documents Section Supervisor
Patty Parris

Documents Editors

Lisa Brull

Janiene Hagel

Open Meetings Clerk

Brenda J. Kizzee

Production Section Supervisor

W. Craig Howell

Production Editor

Jody Allen

Typographers

Ann Franklin

Sharon Menger

Circulation/Marketing

Richard Kallus

Roberta Knight

TAC Editor

Dana Blanton

Subscriptions—one year (96 regular issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$4 per copy.

999-University of Houston System
999-Texas Commission on Human Rights
999-State Board of Insurance
999-Texas State Board of Medical Examiners
1000-Texas National Guard Armory Board
1000-Pan American University
1000-Board of Pardons and Paroles
1000-Texas State Board of Professional Counselors
1001-Public Utility Commission of Texas
1001-Texas Racing Commission
1001-Railroad Commission of Texas
1002-State Securities Board
1002-Texas State Technical Institute
1003-Transportation Audit Committee
1003-University Interscholastic League
1003-Regional Meetings

In Addition

Texas Air Control Board

1005-Correction of Error
1005-Notice of Contested Case Hearing

State Banking Board

1005-Notice of Hearing

Texas Department of Commerce

1006-Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds

Office of Consumer Credit Commissioner

1006-Notice of Rate Ceilings

Texas Department of Health

1007-Radioactive Material License Amendment

1008-Proposed Radioactive Material

Texas Higher Education Coordinating Board

1009-Notice of Meeting

Texas Department of Human Services

1009-Request for Proposals

Texas State Library and Archives Commission

1010-Texas County Records Manual Review Committee

Texas Water Commission

1010-Request for Proposals



Name: Brant Mullen

Grade: 5

School: Evers Park Elementary, Denton

TAC Titles Affected

TAC Titles Affected—February

The following is a list of the administrative rules that have been published this month.

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §§3.401-3.438—985

Part IV. Office of the Secretary of State

1 TAC §§93.1-93.6—657

1 TAC §§93.1-93.7—657

1 TAC §§93.41-93.44—658

1 TAC §§93.41-93.45—658

1 TAC §§93.51-93.54—658

1 TAC §§93.51-93.55—659

1 TAC §§93.61-93.68—659

1 TAC §§93.81, 93.82—660

1 TAC §§93.91-93.93—663

1 TAC §§93.91-93.94—663

1 TAC §§93.101-93.103—663

1 TAC §§93.101, 93.102—663

1 TAC §§93.111-93.116—665

1 TAC §§93.111, 93.117—665

1 TAC §§93.131-93.134—666

1 TAC §93.141—666

1 TAC §§93.141, 93.142—666

1 TAC §93.151—667

1 TAC §§93.151-93.154—667

1 TAC §93.161-93.164—667

1 TAC §93.171—668

1 TAC §§93.181-93.183—668

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §§17.70-17.74—651, 669

Part II. Animal Health Commission

4 TAC §35.1—669

4 TAC §35.2—691,670

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

7 TAC §3.33—975

Part III. State Banking Board

7 TAC §31.5—691

Part VI. Credit Union Department

7 TAC §91.701—671

7 TAC §95.6—691

7 TAC §95.101—691

7 TAC §107.2—692

7 TAC §109.7—693

7 TAC §§141.1-141.8—693

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

10 TAC §§13.1, 13.7, 13.8, 13.9, 13.10, 13.11, 13.12, 13.13—739

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §5.233—827

16 TAC §5.249—939, 945

16 TAC §5.294—827

16 TAC §§5.502, 5.504-5.508—671

16 TAC §5.535—939

16 TAC §9.64—975

16 TAC §9.96—978, 983

16 TAC §9.129—978, 983

16 TAC §9.143, §9.146—978, 983

16 TAC §9.262, §9.268—979

16 TAC §9.283—979

Part II. Public Utility Commission of Texas

16 TAC §21.22—983

16 TAC §23.3—983

16 TAC §23.23—983

16 TAC §23.61—893

Part IV. Texas Department of Labor and Standards

16 TAC §§77.1, 77.5, 77.9, 77.13, 77.17, 77.21—733, 739

16 TAC §§77.1, 77.10, 77.20, 77.30, 77.40, 77.41, 77.70, 77.71, 77.72, 77.73, 77.80, 77.90, 77.91—733, 739

16 TAC §80.3—651, 673

Part VIII. Texas Racing Commission

16 TAC §303.96—828

16 TAC §309.307—828

16 TAC §309.310—828

16 TAC §309.355—829

16 TAC §309.357—829

16 TAC §319.1-319.12—829

16 TAC §§319.101-319.108—831

16 TAC §§319.201-319.203—832

16 TAC §§319.301-319.309—833

16 TAC §§319.331-319.337—833

16 TAC §§319.361-319.364—834

16 TAC §319.391—835

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §21.2—985

19 TAC §21.28—985

19 TAC §§21.171-21.179—986

Part II. Texas Education Agency

19 TAC §75.196—980

19 TAC §89.245—693

19 TAC §109.61—673

19 TAC §121.32—693

19 TAC §149.43—980

TITLE 22. EXAMINING BOARDS

Part VI. Texas State Board of Registration for Professional Engineers

22 TAC §131.55—895

22 TAC §131.73—895

22 TAC §§131.131, 131.132—785

22 TAC §131.138—895

22 TAC §131.141—785

Part IX. State Board of Medical Examiners

22 TAC §163.2—785

22 TAC §186.3—740

22 TAC §187.1—740

22 TAC §187.37—740

22 TAC §193.7—741

Part XI. Board of Nurse Examiners

22 TAC §§217.1, 217.17—785

Part XIV. Texas Optometry Board

22 TAC §279.5—694

22 TAC §279.9—673

Part XX. Board of Private Investigators and Private Security Agencies

22 TAC §435.1—983

22 TAC §435.9—983

22 TAC §435.15—984

Part XXIV. Texas Board of Veterinary Medical Examiners

22 TAC §573.43—945

22 TAC §577.14—945

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §1.121—845

25 TAC §§115.1-115.6, 115.8, 115.12-115.14, 115.17—674

Part II. Texas Department of Mental Health and Mental Retardation

25 TAC §401.49—679

25 TAC §§401.341-401.350—786

25 TAC §401.504—737, 741

25 TAC §§402.201-402.222—787

25 TAC §§405.231-405.246—792

25 TAC §§405.691-405.724—793

Part VI. Statewide Health Coordinating Council

25 TAC §§571.21-571.30—845

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §1.407—679

28 TAC §3.3312—940

28 TAC §5.11—652

28 TAC §§5.9001-5.9008—793

28 TAC §§5.9005-5.9007—793

28 TAC §7.67—937

28 TAC §9.1—899

28 TAC §11.1205—742

28 TAC §15.27—742

28 TAC §19.1301-19.1320—823

28 TAC §21.6—743

28 TAC §25.713—737

28 TAC §29.2—744

28 TAC §§33.1-33.10—986

28 TAC §§33.101-33.108—987

28 TAC §§33.201-33.206—988

28 TAC §§33.301-33.308—989

28 TAC §§33.401-33.407—990

28 TAC §§33.501-33.511—991

Part II. Industrial Accident Board

28 TAC §42.15—823, 835

28 TAC §42.110—823

28 TAC §42.112—652

28 TAC §§42.307-42.309—694

28 TAC §42.110—845

**TITLE 31. NATURAL RESOURCES
AND CONSERVATION**

Part III. Texas Air Control Board

31 TAC §§112.42, 112.43—680

31 TAC §112.43—680

31 TAC §118.1, §118.5—835

Part IX. Texas Water Commission

31 TAC §293.59—652

31 TAC §305.521—783

Part X. Texas Water Development Board

31 TAC §341.81—984

31 TAC §§365.1-365.3—897

31 TAC §365.11, §365.12—897

31 TAC §§365.21-365.26—897

31 TAC §365.41, §365.42—897

31 TAC §§365.51-365.53—897

31 TAC §§365.61-365.64—897

31 TAC §§365.71-365.78—897

31 TAC §365.91—897

31 TAC §§366.1-366.3—897

31 TAC §§366.41-366.44—897

31 TAC §§366.51-366.60—898

31 TAC §366.71, §366.72—898

31 TAC §§366.81-366.85—898

31 TAC §366.91, §366.92—898

31 TAC §§366.101-366.110—898

31 TAC §366.111—898

31 TAC §§375.2-375.4—744

31 TAC §§375.17, 375.18-375.20—746

31 TAC §375.21—749

31 TAC §§375.31-375.36, 375.38, 375.39—749

31 TAC §375.35—757

31 TAC §375.51—757

31 TAC §§375.62, 375.63—757

31 TAC §375.71—758

31 TAC §375.72—758

31 TAC §§375.81-375.84, 375.86, 375.88—759

31 TAC §§375.102, 375.103—760

31 TAC §375.111—760

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.141—694

34 TAC §3.545—655, 942

34 TAC §3.547—973

34 TAC §3.548—938

34 TAC §3.552—942

34 TAC §3.554—737

Part IV. Employees Retirement System of Texas

34 TAC §81.3—973

**TITLE 37. PUBLIC SAFETY AND
CORRECTIONS**

Part I. Texas Department of Public Safety

37 TAC §1.34—900

37 TAC §1.221—900

37 TAC §23.15—840

37 TAC §23.79—841

37 TAC §23.91, §23.92—841

Part III. Texas Youth Commission

37 TAC §81.1—847

37 TAC §81.1, §81.3—848

37 TAC §81.11—847

37 TAC §§81.21-81.45—847

37 TAC §81.102—847

37 TAC §§81.141-81.147—847

37 TAC §§81.171-81.173—847

37 TAC §§81.191-81.193, 81.195, 81.197, 81.198—847

37 TAC §§81.221-81.225, 81.267—848

37 TAC §81.301—848

37 TAC §83.1—848

37 TAC §§83.1, 83.3, 83.5, 83.7, 83.9, 83.11, 83.13,
83.15, 83.17, 83.19, 83.21, 83.23—849

37 TAC §83.11—848

37 TAC §83.21—848

37 TAC §83.31—848

37 TAC §83.41—848

37 TAC §83.51—849

37 TAC §83.61—849

37 TAC §83.71—849

37 TAC §83.81-83.85—849

37 TAC §83.91-83.94—849

37 TAC §83.101—849

37 TAC §§85.1-85.5—850

37 TAC §§85.1, 85.3, 85.5, 85.7—850

37 TAC §§85.11-85.18—850

37 TAC §§85.31-85.33—850

37 TAC §§85.39—851

37 TAC §§85.41-85.50—850

37 TAC §§85.61-85.78—850

37 TAC §85.91—850

37 TAC §§86.125, 86.130, 86.135, 86.145, 86.148,
86.151, 86.153, 86.165, 86.170, 86.172, 86.180, 86.195,
86.197, 86.201, 86.205, 86.215, 86.221, 86.225, 86.240—
851

37 TAC §87.1, §87.2—851

37 TAC §§87.5, 87.7, 87.9, 87.11, 87.13, 87.15, 87.17,
87.19, 87.21—852

37 TAC §§87.11-87.13, 87.19—851

37 TAC §§87.31, 87.33, 87.35—853

37 TAC §§87.31-87.35—851

37 TAC §§87.51, 87.53, 87.55, 87.57—853

37 TAC §87.54, §87.55—851

37 TAC §87.71—852

37 TAC §§87.71, 87.73, 87.75—853

37 TAC §87.81—852

37 TAC §87.91, §87.92—852

37 TAC §§87.91, 87.93, 87.95, 87.97, 87.99, 87.101,
87.103, 87.105, 87.107, 87.109, 87.111—854

37 TAC §87.101, §87.102—852

37 TAC §§87.111-87.113—852

37 TAC §87.141—845

37 TAC §§89.1, 89.3, 89.5, 89.7, 89.9, 89.11, 89.13,
89.15, 89.17, 89.19, 89.21, 89.23, 89.25—854

37 TAC §89.60, §89.76—856

37 TAC §89.85, §89.86—857

37 TAC §89.91, §89.92—857

37 TAC §§89.96, 89.98, 89.100—857

37 TAC §§89.131-89.133—857

37 TAC §§89.250—857

37 TAC §§89.251—857

37 TAC §§89.271—857

37 TAC §§89.291-89.294—857

37 TAC §§89.395, §89.400—857

37 TAC §§89.425, 89.430, 89.440, 89.445—858

37 TAC §§89.540, 89.545, 89.555, 89.560, 89.565, 89.570, 89.575, 89.585, 89.600, 89.605, 89.610—858

37 TAC §§89.665, 89.700, 89.705, 89.710, 89.715, 89.720, 89.724, 89.725, 89.730, 89.740, 89.750, 89.755, 89.760, 89.770, 89.771, 89.772, 89.773, 89.775, 89.785, 89.790, 89.820—858

37 TAC §§91.1, §91.2—858

37 TAC §§91.31-91.35—858

37 TAC §§91.37—860

37 TAC §§91.41-91.44—858

37 TAC §§91.51-91.53—858

37 TAC §§91.51, 91.53, 91.55, 91.57, 91.59, 91.63, 91.65, 91.67, 91.69—860

37 TAC §§91.61-91.63—859

37 TAC §§91.71-91.73—859

37 TAC §§91.91—859

37 TAC §§91.101-91.105—859

37 TAC §§91.111, §91.112—859

37 TAC §§91.121, §91.122—859

37 TAC §§91.131—859

37 TAC §§91.141-91.143—859

37 TAC §§91.151-91.154—859

37 TAC §§91.171-91.175—860

37 TAC §§91.601, 91.604, 91.607, 91.611, 91.615, 91.619, 91.623, 91.627, 91.631, 91.635, 91.639, 91.651, 91.655, 91.659, 91.661, 91.665, 91.669, 91.673, 91.681, 91.685, 91.689, 91.693—860

37 TAC §§91.37—860

37 TAC §§91.51, 91.53, 91.55, 91.57, 91.59, 91.63, 91.65, 91.67, 91.69—860

37 TAC §§91.821, 91.823, 91.825, 91.827, 91.830, 91.833, 91.835—860

37 TAC §§93.1—862

37 TAC §§93.1-93.4, 93.10-93.12—862

37 TAC §§93.21, §93.23—863

37 TAC §§93.21, 93.25, 93.29, 93.33, 93.37, 93.41, 93.43, 93.45, 93.49, 93.53—862

37 TAC §§93.31—863

37 TAC §§93.51, 93.53, 93.55, 93.57, 93.59, 93.63—863

37 TAC §§93.61, 93.63, 93.65, 93.69—862

37 TAC §§93.79, 93.83, 93.87, 93.91, 93.95—862

37 TAC §§93.101, §93.110—862

37 TAC §§95.1—864

37 TAC §§95.1, §95.2—863

37 TAC §§95.11 §95.14—863

37 TAC §§95.31-95.37—863

37 TAC §§95.51, §95.52—863

37 TAC §§95.61-95.63, 95.66, 95.67—863

37 TAC §§95.90, §95.95—864

37 TAC §§95.117—864

37 TAC §§95.131-95.139—864

37 TAC §§95.171-95.179—864

37 TAC §§95.201, 95.211, 95.221, 95.231, 95.241, 95.251, 95.261, 95.270, 95.271, 95.281—864

37 TAC §§97.1—864

37 TAC §§97.12-97.15—864

37 TAC §§97.21-97.24—865

37 TAC §§97.31-97.33—865

37 TAC §§97.41-97.47—865

37 TAC §§97.61, 97.64-97.66—865

37 TAC §§97.82, §97.83—865

37 TAC §§97.91-97.98—865

37 TAC §§99.11-99.14—865

37 TAC §§99.21, 99.25, 99.26—866

37 TAC §§101.1—866

37 TAC §§101.11-101.18—866

37 TAC §§101.31, §101.32—866

37 TAC §§101.41-101.49—866

37 TAC §§101.61-101.68—866

37 TAC §§103.1, §103.2—866

37 TAC §§103.21, §103.22—867

37 TAC §103.41—867

37 TAC §103.61, §103.62—867

Part XI. Texas Juvenile Probation Commission

37 TAC §341.17—794

37 TAC §341.19—794

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §14.1—776

40 TAC §14.107—777

40 TAC §§14.401-14.406—778

40 TAC §16.1511—696

40 TAC §16.1513—696

40 TAC §29.606—696

40 TAC §29.1109—697

40 TAC §47.3908—943

40 TAC §48.2911—842

40 TAC §48.3904, §48.3905—993

40 TAC §48.8901—993

40 TAC §49.104—994

40 TAC §49.307—994

40 TAC §§49.501-49.511, 49.513—994

40 TAC §§49.501-49.517—994

40 TAC §53.504—944

40 TAC §72.801—995

Part II. Texas Rehabilitation Commission

40 TAC §115.4—697

Part III. Texas Commission on Alcohol and Drug Abuse

40 TAC §141.81—981

Part IX. Texas Department on Aging

40 TAC §§276.1, 276.3, 276.5, 276.7, 276.9, 276.11, 276.13, 276.15, 276.17—900

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

43 TAC §21.160—783, 794



Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes, Article 4399, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Open Records Decisions

ORD-518 (RQ-1489). Request from Patrick O. Hardy, Criminal District Attorney, Tyler County, Woodville, concerning whether the Open Records Act, Texas Civil Statutes, Article 6252-17a, prohibits the release of information related to bad check fund administered by the Criminal District Attorney.

Summary of Decision. The names of persons who have made restitution to the county for bad checks turned over to the county for collection and related information about the bad check funds held by the

criminal district attorney must be released to the public. Requests for information about the funds that is held by the county auditor and not the criminal district attorney must be directed to the county auditor rather than the criminal district attorney.
TRD-8901506

ORD-519 (RQ-1544). Request from Karl E. Hays, Attorney at Law, Heard, Goggan, Blair, Williams & Harrison, San Antonio, concerning whether information held by the Bexar Metro 911 Network district is subject to the Texas Open Records Act, and, if so, whether it may be withheld under the Act, §3(a) (8).

Summary of Decision. The Bexar Metro 911 Network District is a governmental body within the meaning of the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §2(1). When the district records information on behalf of one of the governmental entities it serves, the tapes it records are records subject to the Act. Once the district receives a request for one of the tapes in its possession, it cannot transfer the tape to the governmental body simply to avoid having to comply with the Act. After tapes are transferred, requestors should be directed to the governmental entity on whose behalf the district took the call at issue. TRD-8901507



Name: Leann Puckett

Grade: 5

School: Evers Park Elementary, Denton

Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

• 34 TAC §3.547

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.547, concerning books and records—bingo licensees. The amendment amends subsection (a)(1)(B) to specify who may be on the signature card for a licensed organization's bingo account.

The amendment is adopted on an emergency basis to ensure that each licensed organization has complete control over its bingo account.

The amendment is proposed under Texas Civil Statutes, Article 179d, which provide the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.547. Books and Records—Bingo Licensees.

(a) This section sets minimum standards for record keeping for licensees that conduct bingo. Where the comptroller provides forms for record keeping, licensees may use those forms or forms of their own choosing which contain the same information.

(1) Cash receipt records. The records required to document cash receipts consist of the following.

(A) (No change.)

(B) Bingo bank account. A licensed organization must establish and maintain one regular checking account designated the bingo account and may also maintain an interest-bearing savings account designated the bingo savings account, as provided in the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §19a(a). A licensed organization may have on its bingo account's signature card only active members of the organization except that one bookkeeper or accountant who is not a member may be on the signature

card. At least one active member of the licensed organization must be on the signature card. A licensed organization must keep validated deposit slips. Any interest income earned from the bingo savings account must be accounted for as part of the net proceeds available for charitable distribution.

(C)-(D) (No change.)

(2) (No change.)

(b)-(e) (No change.)

Issued in Austin, Texas, on February 16, 1989.

TRD-8901528

Bob Bullock
Comptroller of Public
Accounts

Effective date: February 16, 1989

Expiration date: June 16, 1989

For further information, please call: (512) 463-4004

Part IV. Employees Retirement System of Texas

Chapter 81. Insurance

• 34 TAC §81.3

The Employees Retirement System of Texas adopts on an emergency basis an amendment to §81.3(c)(2), concerning HMO benefits. This emergency amendment is in addition to rules previously adopted by the board of trustees on December 20, 1988. This emergency was necessitated by pending litigation.

As a result of this emergency amendment, the deadline of submitting application for HMO is changed from February 1, to March 1, 1989. Also, the board of trustees adopted by reference standardized HMO benefits.

The amendment is adopted on an emergency basis under the Texas Insurance Code, Article 3.50-2, §4, as amended, which provides the board of trustees of the Employees Retirement System of Texas with the authority to adopt rules as it shall deem necessary to insure the proper administration of the Texas Employees Uniform Group Insurance Benefits Act. This Act, §5(e), further authorizes the board of trustees of the Employees Retirement System of Texas to select and to contract for services proposed by health maintenance organizations which are approved by the federal government or the State of Texas to offer health care services to

eligible employees and annuitants in a specific area of the state.

§81.3. Administration.

(a)-(b) (No change.)

(c) Health maintenance organizations.

(1) (No change.)

(2) An HMO seeking board approval must satisfy the following conditions.

(A)-(D) (No change.)

(E) The HMO must submit an annual application, with rates, by March 1 [February 1] of each year to the board of trustees in the format prescribed by the Employees Retirement System of Texas. Once submitted, the rates may be modified effective November 1 of the contract year if the board of trustees approves the modification and the HMO gives notice of modification as required by the letter of agreement between the Employees Retirement System of Texas and the HMO under which the HMO is currently operating. A request for expansion of service area, as described in this section, shall require a separate application.

(F) (No change.)

(G) The board of trustees hereby adopts standardized HMO benefits. The benefits are prescribed in the document entitled "Summary of HMO Benefits" (September 1, 1989-August 31, 1990), which is adopted by reference in this section. This document, which is to be considered a part of this section for all purposes, may be obtained from the executive director, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207.

(3)-(5) (No change.)

(d) (No change.)

Issued in Austin, Texas, on February 16, 1989.

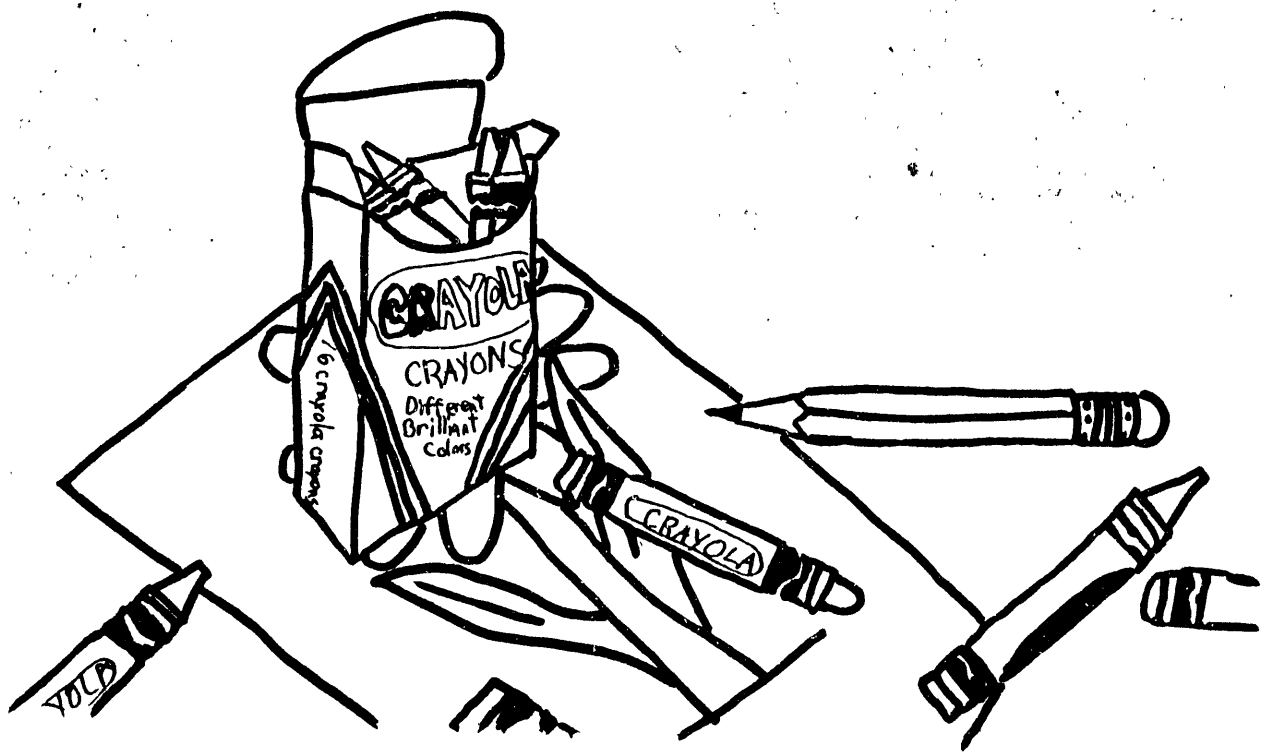
TRD-8901525

Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

Effective date: February 16, 1989

Expiration date: April 21, 1989

For further information, please call: (512) 476-6431, ext. 213



Name: Trisa Evans

Grade: 5

School: Evers Park Elementary, Denton

Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a section.

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section

• 7 TAC §3.33

The Banking Section of the Finance Commission proposes an amendment to §3.33, concerning notices to persons applying to engage in a particular activity issued by the Texas Department of Banking, time periods for processing applications, and appeals procedures for applicants. The timetable currently set out in the rule for processing of branch applications is 45 days from the date that the application is accepted for filing. This time frame was adopted at a time when no hearings on branch applications were contemplated.

However, since the decision rendered by the Federal District Court in *Texas v Clarke*, and since the adoption of 7 TAC §3.91 relating to the establishment of branches outside the county of the bank's domicile, there is a possibility that hearings will be required on certain applications. Accordingly, the time frame set out in §3.33 for processing of branch applications is impractical and this amendment will expand the time frame for processing branch applications in situations where a hearing will be held.

Carlos J. Contreras, III, assistant general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Contreras also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be notice to the public of the periods within which applications will be processed by the commissioner and the existence of a remedy for any failure of the commissioner to comply with those periods. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The amendment is proposed under the Texas Banking Code, Article 342-223 and 6252-13b1 §§1-7, which provides the Banking Section of the State Finance Commission with the authority to adopt rules regarding proce-

dures by which the commissioner processes applications for licenses or other forms of authority.

§3.33. Notices to Applicants; Application Processing Times; Appeals.

(a) (No change.)

(b) The commissioner shall determine whether to deny or approve an application within the following periods and in the following manner after a complete application has been accepted for filing:

(1)-(4) (No change.)

(5) branching applications: for noncontested cases, a decision will be rendered within 45 days. However, if the commissioner determines that an examination is necessary in order to reach his decision, a decision to deny or approve the applications will be rendered within 45 days of the date of completion of the examination. For contested cases, a hearing, if granted, will be held within 90 days of the date that the application is accepted for filing and a decision will be rendered by the commissioner in accordance with the timetable set out in the Administrative Procedure and Texas Register Act, Article 6252-13a. For contested cases where no hearing is granted, a decision will be rendered within 90 days.

(c)-(d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 16, 1989.

TRD-8901527

Ann Graham
General Counsel
Department of Banking

Earliest possible date of adoption: March 27, 1989

For further information, please call: (512) 479-1200



TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter B. Basic Rules

The Railroad Commission of Texas proposes amendments to §§9.64, 9.129, 9.262, 9.268, and 9.283, concerning uniform safety requirements, specifications for LP-gas fuel storage container valves, accessories, piping, fittings, and labels. In addition, the commission proposes the repeal of §§9.96, 9.143, and 9.146, concerning regulator relief valves, container valves and accessories, piping, and fittings. The commission further proposes new §§9.96, 9.143, and 9.146, concerning regulator relief valves, labels, piping, and fittings.

The amendment to §9.64(e) would establish minimum separation distances between LP-gas containers and oxygen or gaseous hydrogen containers. In addition, the commission proposes new subsection (g) which would upgrade the requirements for hydrostatic relief valves. Finally, the commission proposes new subsections (h)-(p) concerning requirements for safety valves such as excess flow valves and filler valves which are currently addressed by other LP-gas rules. The commission proposes to incorporate into proposed §9.64 all references to safety valve requirements contained in the current LP-gas rules. The commission proposes to incorporate these rules into §9.64(h)-(p) in order to clarify the existing rules and to assure uniformity with current national LP-gas safety standards.

The amendments to §§9.129, 9.262, 9.268, and 9.283 delete requirements regarding safety valves, such as excess flow valves and filler valves. These requirements have been revised to conform with current safety standards and have been incorporated into proposed §9.64(h)-(p). Language in current §§9.129, 9.262, 9.268, and 9.283 not pertaining to safety valves will remain in these sections as proposed.

The commission proposes the repeal of current §9.96 and proposes new §9.96 in order to insure uniformity with current LP-gas safety standards with respect to regulator relief valves.

The commission proposes the repeal of current §9.143 and proposes new §9.143 because current subsections (a)-(c) and (e)-(g) have been incorporated into proposed

§9.64(h)-(p). Proposed new §9.143 specifies the labeling requirements for inlet and outlet valves on LP-gas containers.

The commission proposes the repeal of current §9.146 and proposes new §9.146 because current subsection (d) has been incorporated into proposed §9.64(g) and current subsections (a) and (b) have been incorporated into recently proposed new §9.510, which is expected to be adopted soon by the commission. New §9.146 is proposed for clarification purposes in order to cross reference relevant safety regulations in recently proposed §9.510.

Meredith Kawaguchi, assistant director, Legal Division, has determined that for each of the first five years the sections as proposed will be in effect, there will be no fiscal implications for state or local government, or on small businesses as a result of enforcing or administering the sections.

Ms. Kawaguchi has further determined that for each of the first five years the sections as proposed are in effect the public benefit anticipated as a result of the sections as proposed are increased compliance due to the more clearly understandable rules and increased safety due to the updated and revised safety requirements. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Public comments are invited and may be submitted in writing to Thomas Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

• 16 TAC §9.64

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.64. Uniform Safety Requirement.

(a)-(d) (No change.)

(e) Storage of LP-gas next to flammable liquids. Suitable means shall be taken by diking, diversion curbs, and grading to prevent the accumulation of flammable liquids such as gasoline, diesel, etc., under LP-gas containers. LP-gas containers shall not

be located within a diked area. The minimum separation between LP-gas containers and flammable liquid containers [tanks] shall be 20 feet, and the minimum separation between a container and the center line to the dike shall be 10 feet. Note: This applies to aboveground LP-gas containers as described in Division II (commercial), III, IX, and XI. The minimum separation between LP-gas containers and oxygen or gaseous hydrogen containers shall be in accordance with Table 1 as follows, except that lesser distances are permitted where protective structures having a minimum fire resistance rating of two hours interrupt the line of sight between uninsulated portions of the oxygen or hydrogen containers and the LP-gas containers.

(f) (No change.)

(g) Hydrostatic relief valve. Any closed portion of either liquid piping or hose designed to operate up to 350 psig shall be equipped with a hydrostatic relief valve having a pressure setting of not less than 400 psig or more than 500 psig, or an approved bypass valve communicating directly with the storage container. Liquid piping or hose designed to operate above 350 psig shall be equipped with a hydrostatic relief valve having a pressure setting of not less than 110% or more than 125% of the system design pressure, or an approved bypass valve communicating directly with the storage container.

(h) Pumps mounting. Pumps, when used, shall be secured against displacement and shall be mounted on a noncombustible support or base.

(i) Length of flexible connectors. Flexible connectors, other than LP-gas transfer hoses in excess of 3/4 inch in diameter shall not exceed 42 inches in length and shall not be used in lieu of pipe fittings to change direction in liquid or vapor piping.

(j) Container discharge outlet requirements. The discharge outlet shall be provided with an excess flow valve or an internal valve(s) with excess flow capabilities.

(k) Container filling and vapor return outlet requirements. Filling and

vapor return outlets shall be provided with valves to prevent back flow.

(l) Other container outlet requirements. All other outlets to containers, except relief valves, filling connections, and liquid level gauging devices shall be equipped with excess flow valves.

(m) Excess flow valve design requirements. Excess flow valves, where required by these standards, shall be designed to close automatically and shut off the gas or liquid flow in case:

(1) the flow through the valve exceeds a predetermined flow, which flow must be less than the pipe line capacity to and from such excess flow valve; or

(2) the pressure on the inlet side of excess flow valve exceeds by a certain designed number of pounds per square inch, the pressure in pounds of the outlet of such valve.

(n) Excess flow valve bypass requirements. Excess flow valves may be designed with a bypass, not to exceed a Number 60 drill size opening, to allow equalization of pressure.

(o) Location of excess flow and back pressure check valve. Excess flow and back-pressure check valve, where required by these standards, shall be located inside the container, or at a point outside where the line enters the containers; in the latter case, installation shall be made in such manner that any undue strain beyond the excess flow or back-pressure check valve will not cause breakage between the container and such valve. Gauging devices which do not involve the flow of liquid or which are so constructed that outward flow of container contents shall not exceed that passed by a Number 54 drill size need not be equipped with an excess flow valve.

(p) Location of shutoff valves. All connections to containers shall have approved shutoff valves located as close to the container as practicable, except pressure relief connections, gauging devices, filler valves, and vapor return valves.

TABLE 1

LP-Gas Containers Having An Aggregate Water Capacity of	Separation from Oxygen Containers Having an		
	Aggregate capacity of more than 400 Cubic Feet (CF)* to 20,000 CF* including un- connected reserves	Aggregate capacity of more than 20,000 Cubic Feet (CF)* including un- connected reserves	
1,200 gallons	20 feet	25 feet	
Over 1,200 gallons	20 feet	50 feet	
LP-Gas Containers Having An Aggregate Water Capacity of	Separation from Gaseous Hydrogen Containers Having An		
	Aggregate capacity of less than 400CF*	Aggregate capacity of 400 CF* to 3,000 CF*	Aggregate capacity of more than 3,000 CF*
500 gallons or less	None	10 feet	25 feet
Over 500 gallons	None	25 feet	50 feet

*Cubic Feet measured at 70°F. and atmospheric pressure.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901481 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Proposed date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

Subchapter D. Division II

• 16 TAC §9.96

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.96. Regulator Relief Valves.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901478 Cril Payne
Assistant Director Legal
Division, General Law
Railroad Commission of
Texas

Proposed date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

The new section is proposed under the Texas Natural Resources Code, §113.051 which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.96. *Regulator Relief Valves.* Final stage regulators shall be equipped on the low pressure side with a relief valve having a start-to-leak pressure setting of not less than 1.7 times nor more than three times the delivery pressure of the regulator.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901479 Cril Payne
Assistant Director Legal
Division, General Law
Railroad Commission of
Texas

Proposed date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

Subchapter E. Division III

• 16 TAC §9.129

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.129. Container Valves and Pressure Gauge [Accessories].

(a) (No change.)

[(b) Valve seat material, packing, gaskets, etc., shall be of such quality as to be resistant to the action of liquefied petroleum gases.

[(c) All connections to containers shall have approved shut-off valves, located as close to the container as practicable, except safety relief connections, gauging devices, filler valves, and vapor return valves.

[(1) Filling and vapor return connections shall be provided with approved automatic valves to prevent back flow in case the filling connections are broken.

[(2) All other connections to containers except safety relief, filling, and liquid level gauging connections, shall be equipped with approved automatic excess flow valves.

[(d) Excess flow valves, where required by these standards, shall be designed to close automatically and shut off the gas or liquid flow in case:

[(1) the flow through the valve exceeds the predetermined flow, which must be less than the pipeline capacity to and from such excess flow valve; or

[(2) the pressure on the inlet side of excess flow valve exceeds by a certain designed number of pounds per square inch, the pressure in pounds of the outlet of such valve.

[(e) Excess flow valves may be designed with a bypass, not to exceed a Number 60 drill size opening, to allow equalization of pressure.

[(f) Excess flow and back-pressure

check valves, where required by these standards, shall be located inside the container, or at a point outside, where the line enters the containers; in the latter case, installation shall be made in such manner that any undue strain beyond the excess flow or back-pressure check valve will not cause breakage between the container and such valve. Gauging devices, which do not involve the flow of liquid or which are so constructed that outward flow of container contents, shall not exceed that passed by a Number 54 drill size, need not be equipped with excess flow valve.

[(g) Any portion of either piping or hose which may at any time be closed at both ends shall be equipped with either a suitable spring-loaded hydrostatic valve, or an approved spring-loaded bypass valve communicating directly with the tank.]

[(b)[(h)] A pressure gauge shall be required on all bulk storage containers. Container openings to which a pressure gauge is attached need not be equipped with a shutoff [shut-off] valve or excess flow valve if such openings are restricted to not larger than a Number 54 drill size opening, and are piped to the vapor space of the container.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on February 13, 1989.

TRD-8901480 Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

Subchapter F. Division IV

• 16 TAC §9.143, §9.146

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.143. Container Valves and Accessories.

§9.146. Piping and Fittings.

This agency hereby certifies that the proposal

has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901477

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Proposed date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

The new sections are proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the Liquefied Petroleum Gas Industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.143. Labels. All container inlets and outlets, except relief valves, liquid level gauging devices, and pressure gauges, shall be labeled to designate whether they communicate with vapor or liquid space. Labels may be on valves.

§9.146. Piping and Fittings. Refer to §9.510 of this title (relating to Protection, Piping, and Fittings).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901478

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Proposed date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

Subchapter K. Division IX

• 16 TAC §9.262, §9.268

The amendments are proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry and its operations which will protect or tend to protect the health, safety, and welfare of the general public.

§9.262. Fuel Storage Container Valves and Accessories.

(a)-(c) (No change.)

[(d) All openings in a container shall be equipped with approved automatic excess flow or back-pressure check valves except the following: safety relief connec-

tions, liquid level gauging devices, and pressure gauge connections.]

[(d)[(e)] All inlet and outlet connections except safety relief valves, liquid level gauging devices, and pressure gauges on storage containers shall be permanently marked "vapor" or "liquid" to designate whether they communicate with vapor or liquid space. Labels shall be on both containers and valves.

[(f) All connections to containers shall have approved shut-off valves located as close to the container as practicable, except safety relief connections, gauging devices, filler valves, and vapor return valves.

[(1) Filling and vapor return connections shall be provided with approved automatic double check valves to prevent back flow in case the filling connections are broken.

[(2) All other connections to containers except safety relief, filling, and liquid level gauging connections, shall be equipped with approved automatic excess flow valves.]

[(g)] Each storage container shall be provided with an approved pressure gauge.

§9.268. Pippings, Valves, and Fittings.

(a) Piping may be underground, aboveground, or both, and shall be well supported and protected against physical damage and corrosion. [A safety relief valve shall be installed in all lines that have a positive shut-off at each end.]

(b)-(d) (No change.)

[(e) All materials such as valve seats, packing, gaskets, diaphragms, etc., shall be of a material which is resistant to the solvent action of liquefied petroleum gas under the service conditions to which they are subjected.]

[(f)] Fittings shall of forged steel [having a minimum working pressure of 2,000 pounds].

[(g)] All piping and fitting assemblies shall be tested after assembly and proved free from leaks at not less than normal operating pressures.

[(h)] Joint compound for use with liquefied petroleum gas piping shall be of an approved type resistant to the action of liquefied petroleum gases. Joint compound, where used, shall be used only on the male thread.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901475

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

Subchapter L. Division X

• 16 TAC §9.283

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the Railroad Commission of Texas to promulgate rules and standards related to the liquefied petroleum gas industry and its operation which will protect or tend to protect the health, safety, and welfare of the general public.

§9.283. Labels [Container Valves and Accessories].

[(a) The discharge outlet shall be provided with a suitable automatic excess flow valve.

[(b) Filling and vapor return connections shall be provided with approved automatic valves to prevent back flow in case the filling connection is broken.

[(c) All other connections to containers, except safety relief, filling and liquid level gauge connections, shall be equipped with approved automatic excess flow valves.]

[(d)] All container inlets and outlets, except safety relief valves, liquid level gauging devices, and pressure gauges, shall be labeled to designate whether they communicate with vapor or liquid space. Labels may be on valves.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901473

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: April 25, 1989

For further information, please call: (512) 463-7152

TITLE 19. EDUCATION
Part II. Texas Education
Agency

Chapter 75. Curriculum

Subchapter H. Promotion and
Alternatives to Social
Promotion

• 19 TAC §75.196

The Texas Education Agency proposes new §75.196, concerning adoption by reference of a memorandum of understanding on coordination of services to multiproblem children and youth among the agency, the Texas Department of Human Services, Texas Commission for the Blind, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, and Texas Youth Commission.

The intent of the proposed memorandum is to establish a system which ensures the coordination of services between agencies to multiproblem children and youth. The memorandum provides a definition of multiproblem children and youth and addresses the area of financial and statutory responsibilities of each agency, interagency cost-sharing, elimination of duplicative services, interagency dispute resolution, and composition and operation of the local level groups designated to facilitate coordination. The text of the proposed memorandum is identical to what the Texas Department of Human Services published as proposed 40 TAC §72.701, in the November 15, 1988, issue of the *Texas Register* (13 TexReg 5727).

This spring, the agencies will conduct four pilot programs at the local level in Henderson, Tarrant, Travis, and Val Verde counties prior to statewide implementation of the memorandum next fall.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state and local government. Costs to state government will be dependent upon the cost of handling a case and cannot be estimated until pilot programs are completed. There will be some costs to local districts for identification, referral, and recordkeeping, but those costs cannot be estimated at this time. There will be no fiscal implications for small businesses as a result of enforcing or administering the section.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is that school districts will have access to the assistance of state agencies in the delivery of health and human services. The section will also increase service agencies' accountability for services to children and should result in more equitable distribution of responsibility among the agencies. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination,

1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9212. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The new section is proposed under the Texas Human Resources Code, §41.0011, requiring the Texas Education Agency, Texas Department of Human Services, Texas Commission for the Blind, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, and Texas Youth Commission to adopt by rule a memorandum of understanding to coordinate services for all multiproblem children and youth.

§75.196. *Memorandum of Understanding for Multiproblem Children and Youth.* Implementation of a system of community resource coordination groups to coordinate services for all multiproblem children and youth among the Texas Department of Human Services, Texas Commission for the Blind, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, and Texas Youth Commission is contained in the memorandum of understanding for multiproblem children and youth, which is adopted by reference as a rule of the Central Education Agency. The complete text of the memorandum of understanding may be found in the Texas Department of Human Services, 40 TAC §72.701, concerning memorandum of understanding for services to multiproblem children and youth. A copy of the memorandum of understanding is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901530

W. N. Kirby
Commissioner of Education

Proposed date of adoption: April 15, 1989

For further information, please call: (512) 463-9212

◆ ◆ ◆
Chapter 149. Education
Personnel Development

Subchapter C. Appraisal of
Certified Personnel

• 19 TAC §149.43

The Texas Education Agency proposes an

amendment to §149.43, concerning teacher appraisal procedures. The amendment would require all teacher appraisers to take 36-clock hours in instructional leadership training prior to taking teacher appraisal training.

Currently, the instructional leadership training program is a prerequisite for teacher appraisal training only for all certified administrators and supervisors. Some appraisers, such as peer teacher appraisers, are not certified administrators or supervisors and therefore are not required to complete the 36-clock hour training program prior to taking appraisal training. This amendment would make the prerequisites for all teacher appraisal trainees uniform.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering the section. The cost to local school districts for instructional leadership training at an education service center is approximately \$25 per day per person for the six-day course, or \$150 per person. No estimate is available on the number of teachers who will be required to take this course. Typically, the use of a peer teacher appraiser occurs only in very large districts where department chairpersons are used as appraisers, or in very small districts where no one else is available to serve as an appraiser. Approved instructional leadership training is offered through organizations other than the service centers.

Mr. Moak and Oscar A. Rodriguez, staff services assistant, also have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing this amendment is the uniform training background of all teacher appraisers. There is no anticipated economic cost for individuals who are required to comply with the section.

Comments on the proposal may be submitted to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9212. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.302, which provides the State Board of Education with the authority to adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder purposes.

§149.43. *Teacher Appraisal Procedures.*

(a) Appraiser qualifications.

(1)-(4) (No change.)

(5) Before conducting appraisals, each appraiser must receive instructional leadership training or complete such equivalent coursework within three years of the time when appraisal training is taken, uniform appraiser training and must reach the required standard of profi-

ciency as established by the State Board of Education. Periodic recertification and appraisal training updates will be required for each appraiser.

(b)-(g) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 15, 1989.

TRD-8901529 W. N. Kirby
Commissioner of Education

Proposed date of adoption: April 15, 1989

For further information, please call: (512) 463-9212

◆ ◆ ◆
**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE**

**Part III. Texas
Commission on Alcohol
and Drug Abuse**

**Chapter 141. General
Provisions**

**Continuity of Care of Inmates
with a History of Drug or
Alcohol Abuse**

• **40 TAC §141.81**

The Texas Commission on Alcohol and Drug Abuse proposes new §141.81, concerning the continuity of care for inmates with a history of drug or alcohol abuse. The new section adopts by reference a memorandum of understanding between the commission, the

Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Department of Mental Health and Mental Retardation. The commission proposes the new section in order to comply with Senate Bill 245, 70th Texas Legislature, 1987, enacting Texas Civil Statutes, Article 6203c-11, which require the commission to adopt the memorandum of understanding by rule. Specifically, the memorandum of understanding converse each named agency's role in identifying inmates with a history of drug or alcohol abuse; notification of BPP, TDMHMR, and TCADA, by TDC as to when an inmate with a history of drug or alcohol abuse is to be released and as to the inmate's release destination; identifying the services needed by the inmates with a history of drug or alcohol abuse to successfully reenter the community; and determining the manner in which each party to this memorandum can share information about inmates and use that information to provide continuity of care.

Larry Goodman, chief fiscal officer has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Goodman also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater coordination between the named state agencies in providing appropriate pre- and post-release chemical dependency programming for paroled inmates; and an increased likelihood of successful parole and adaption of released inmates to community life. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Denise Mosel, Administrative Secretary, Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 6203-11, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to adopt by rule the memorandum of understanding between the named state agencies.

§141.81. Continuity of Care of Inmates With a History of Drug or Alcohol Abuse. The commission adopts by reference the provisions of the memorandum of understanding dated January 1, 1989, which was signed by authorized representatives of the Texas Commission on Alcohol and Drug Abuse, Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, and the Texas Department of Corrections, as amended or extended from time to time, by reference. A copy of the memorandum of understanding may be inspected at the Office of the Executive Director, Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe, Austin, Texas 78701.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901557 Bob Dickson
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: March 27, 1989

For further information, please call: (512) 463-5510

◆ ◆ ◆



Name: Trisa Evans

Grade: 5

School: Evers Park Elementary, Denton

Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter D. Division II

• 16 TAC §9.96

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is February 17, 1989.

Issued in Austin, Texas, on February 17, 1989

TRD-8901568

Cril Payne
Assistant Director Legal
Division, General Law
Railroad Commission of
Texas

Effective date: February 17, 1989

For further information, please call: (512)
463-7152

Subchapter E. Division III

• 16 TAC §9.129

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed repeal of §9.129 which appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is February 17, 1989.

Issued in Austin, Texas, on February 17, 1989

TRD-8901570

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: February 17, 1989

For further information, please call: (512)
463-7152

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed new §9.129 which appeared in the October 14, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is February 17, 1989.

Issued in Austin, Texas, on February 17, 1989

TRD-8901571

Cril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: February 17, 1989

For further information, please call: (512)
463-7152

Subchapter F. Division IV

• 16 TAC §9.143, §9.146

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed repeal which appeared in the October 14, 1988, issue of the *Texas Register* (13 TexReg 5111). The effective date of this withdrawal is February 17, 1989.

Issued in Austin, Texas, on February 17, 1989

TRD-8901569

Cril Payne
Assistant Director Legal
Division, General Law
Railroad Commission of
Texas

Effective date: February 17, 1989

For further information, please call: (512)
463-7152

Part II. Public Utility Commission of Texas

Chapter 21. Practice and Procedure

Docketing and Notice

• 16 TAC §21.22

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §21.22 submitted by the Public Utility Commission of Texas has been automatically withdrawn, effective February 7, 1989. The amendment as proposed appeared in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3807).

TRD-8901549

Filed: February 7, 1989

Chapter 23. Substantive Rules

General Rules

• 16 TAC §23.3

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §23.3, submitted by the Public Utility Commission of Texas has

been automatically withdrawn, effective February 7, 1989. The amendment as proposed appeared in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3808).

TRD-8901550

Filed: February 7, 1989

Rate Design

• 16 TAC §23.23

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §23.23, submitted by the Public Utility Commission of Texas has been automatically withdrawn, effective February 7, 1989. The amendment as proposed appeared in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3808).

TRD-8901551

Filed: February 7, 1989

TITLE 22. EXAMINING BOARDS

Part XX. Board of Private Investigators and Private Security Agencies

Chapter 435. Training Programs

• 22 TAC §435.1

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §435.1, submitted by the Board of Private Investigators and Private Security Agencies has been automatically withdrawn, effective February 7, 1989. The amendment as proposed appeared in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3812).

TRD-8901552

Filed: February 7, 1989

• 22 TAC §435.9

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §435.9, submitted by the Board of Private Investigators and Private Security Agencies has been automatically withdrawn, effective February 7, 1989. The amendment as proposed appeared in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3812).

TRD-8901553

Filed: February 7, 1989

• 22 TAC §435.15

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §435.15, submitted by the Board of Private Investigators and Private Security Agencies has been automatically withdrawn, effective February 7, 1989. The amendment as proposed appeared in the August 5, 1988, issue of the *Texas Register* (13 TexReg 3812).

TRD-8901554

Filed: February 7, 1989

◆ ◆ ◆
TITLE 31. NATURAL
RESOURCES AND
CONSERVATION

Part X. Texas Water
Development Board

Chapter 341. Introductory
Provisions Memorandum of
Understanding

Sludge Management

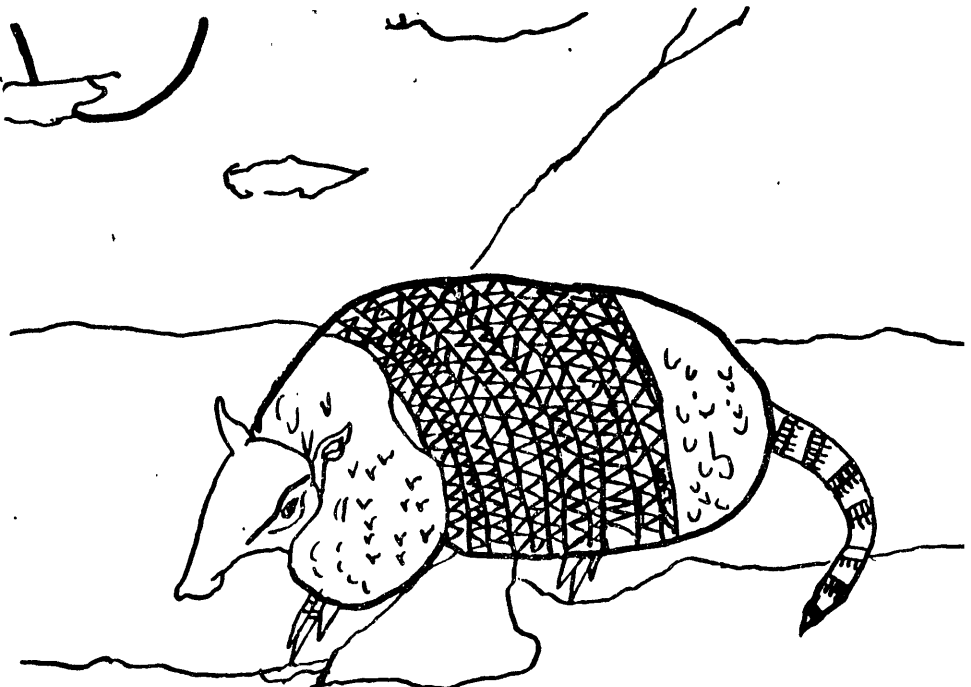
• 31 TAC §341.81

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §341.81, submitted by the Texas Water Development Board has been automatically withdrawn, effective February 17, 1989. The amendment as proposed appeared in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4045).

TRD-8901556

Filed: February 17, 1989

◆ ◆ ◆



Name: Chris McIntosh

Grade: 6

School: Evers Park Elementary, Denton

Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 1.

ADMINISTRATION

Part I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Administration of the Renovation and/or Operation of Jail Facilities Assistance Program

• 1 TAC §§3.401-3.438

The Office of the Governor, Criminal Justice Division (CJD), adopts new §§3.401-3.438. Section 3.403 is adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4029). Sections 3.401, 3.402, and 3.404-3.438 are adopted without changes and will not be republished.

The Office of the Governor, Criminal Justice Division, administers a grant program for the purpose of the renovation and/or operation of jail facilities. The section is required in order to provide prospective grant applicants and grant recipients with information concerning administrative policies, requirements, and operating procedures that apply to grants that may be funded under the Renovation and/or Operation of Jail Facilities Assistance Program. The change made to §3.403(1) from the proposed amendment is an editorial change in the name of the application kit adopted by reference in this section.

The adoption of these sections will ensure that the applicants for the Renovation and/or Operation of Jail Facilities Assistance Program have complete and accurate information necessary for the development of their applications and the administration of the project.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 4413 (32a), §6(a)(11), which provide the Office of the Governor, Criminal Justice Division, with the authority to adopt rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

§3.403. Compliance; Adoption by Reference. Grantee and/or applicants shall comply with all applicable state and federal statutes, rules, regulations, and guidelines. The Criminal Justice Division adopts by

reference the following statutes, documents, and forms. Information regarding these adoptions by reference may be obtained from the Criminal Justice Division, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 15, 1989.

TRD-8901514 Rider Scott
Executive Director, Criminal
Justice Division
Office of the Governor

Effective date: March 8, 1989

Proposal publication date: August 16, 1988

For further information, please call: (512) 463-1919

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

Subchapter A. General Provisions

• 19 TAC §21.2

The Texas Higher Education Coordinating Board adopts new §21.2, without changes to the proposed text as published in the December 23, 1988, issue of the *Texas Register* (13 TexReg 6318).

The new section will be brought into compliance with the statutory requirement.

The change reflects statutory requirement. The new section sets the formula for calculating the tuition rate for nonresident students for the following biennium.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §61.072, which provides the Coordinating Board with the authority to adopt rules regarding determination of cost of education for use in determining the tuition rate for nonresident and foreign students.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 13,

1989.

TRD-8901504 James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Effective date: March 8, 1989

Proposal publication date: December 23, 1988

For further information, please call: (512) 462-6420

Subchapter B. Determining Residence Status

• 19 TAC §21.28

The Texas Higher Education Coordinating Board adopts an amendment to §21.28, without changes to the proposed text as published in the December 20, 1988, issue of the *Texas Register* (13 TexReg 6242).

The amendment will allow citizens of Mexico to have a broader opportunity for education in Texas.

The amendment is being made to broaden the eligibility of students who are citizens of Mexico to pay the same tuition as do Texas residents. Students receiving instruction in a county bordering Mexico will be eligible to qualify as opposed to those who are enrolled in an institution whose home campus is located in a border county.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §61.072 which provides the Coordinating Board with the authority to adopt rules regarding tuition reciprocity with bordering states.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901505 James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Effective date: March 8, 1989

Proposal publication date: December 20, 1988

For further information, please call: (512) 462-6420

Subchapter G. Texas Public Grant Programs

• 19 TAC §§21.171-21.179

The Texas Higher Education Coordinating Board adopts new §§21.171-21.179, without changes to the proposed text as published in the December 20, 1988, issue of the *Texas Register* (13 TexReg 6242).

The new sections are needed because the state remains eligible to participate in the federal State Student Incentive Grants Program.

The new sections will regulate state appropriated funds and excuse participating public institutions of higher education from contributing matching funds.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Education Code, Chapter 56, Subchapter C, which provides the Coordinating Board with the authority to adopt rules regarding the Texas Public Grants Program.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901503

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Effective date: March 8, 1989

Proposal publication date: December 20, 1988

For further information, please call: (512) 462-6420

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 33. Continuing Care Retirement Facilities

Subchapter A. General Provisions

• 28 TAC §§33.1-33.10

The State Board of Insurance adopts new §§33.1-33.10. Sections 33.2, 33.4, 33.7, and 33.8 are adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4030). Sections 33.1, 33.3, 33.5, 33.6, 33.9, and 33.10 are adopted without changes and will not be republished.

New §§33.1-33.10 concern general provisions applicable to continuing care retirement facilities. These new sections are necessary to implement recent legislation, to remind persons operating or developing continuing care retirement facilities of the need to comply with licensing requirements under the Texas Continuing Care Facility Disclosure and Rehabilitation Act (the Act), and to provide protection from fraud or mismanagement

for the investments of elderly consumers in continuing care retirement facilities. This adoption changes the definition of commissioner in §33.2 to clarify that the term will have the same meaning everywhere in this chapter. This adoption changes the language of §33.4 to conform more closely to the language relating to severability of other sections of this title. This adoption changes the first sentence in §33.7 in order to eliminate possible confusion with normal understanding of the meaning of fiscal year. This adoption changes §3.8(1), (4), and (9) to more clearly identify the subjects of the form adopted by reference. Forms adopted by reference under §33.8 have also been changed to provide clearer and more complete information. Copies of the changed forms have been filed with the Secretary of State's Office, Texas Register Division. Persons desiring copies of the changes can obtain them from the Deputy Insurance Commissioner for Regulated Lines and Licensing, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1998.

New §33.1 states the purpose of this chapter. New §33.2 defines words and terms used in this chapter. New §33.3 describes the scope of applicability of this chapter to providers of continuing care. New §33.4 explains the severability of the provisions of this chapter. New §33.5 explains that violations of this chapter are violations of the Act (Texas Civil Statutes, Article 8876). New §33.6 provides for the payment of fees for filing application for a certificate of authority and for filing an annual disclosure statement in accordance with the Act, §22. New §33.7 regulates designations of fiscal years. New §33.8 adopts forms by reference for use in complying with the administration of this chapter. New §33.9 provides an address for filings under this chapter. New §33.10 requires responses to inquiries by the commissioner of insurance concerning unregistered facilities.

Commenting against the sections as proposed was the law firm of Fulbright and Jaworski.

The commenter suggested the need for clarification of fiscal year. In response to the comment, the board has changed the first sentence in §33.7.

The new sections are adopted under Texas Civil Statutes, Article 8876, §3, which provide that the State Board of Insurance may adopt rules as necessary to administer and enforce statutory provisions regulating providers of health-related services and other continuing care to individuals in this state.

§33.2. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Act—The Texas Continuing Care Facility Disclosure and Rehabilitation Act, enacted as House Bill 677, 79th Legislature, 1987, first effective September 1, 1987, and codified as Texas Civil Statutes, Article 8876.

Actuarial review—An analysis which is performed by a qualified actuary in accordance with generally accepted actuarial principles and practices (GAAPP) and which addresses the current actuarial balance of the financial condition of a facility.

An actuarial review should include, but not be limited to, the following:

- (A) actuarial report;
- (B) statement of actuarial opinion;
- (C) actuarial balance sheet;
- (D) cash flow projection; and
- (E) actuarial methodology, formulae, and assumptions.

Affiliate—An affiliate of, or person affiliated with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

Board—The State Board of Insurance.

Commissioner—The commissioner of insurance.

Continuing care—The furnishing, to an individual who is not related by consanguinity or affinity to the person furnishing the care, of board and lodging, together with personal care services, and nursing services, medical services, or other health-related services, regardless of whether or not the services and the lodging are provided at the same location, under an agreement that requires the payment of an entrance fee and that is effective either for the life of the individual or for a period of more than one year.

Control—Control, including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, or holds with the power to vote, or holds irrevocable proxies representing, 10% or more of the voting securities or authority of any other person. This presumption may be rebutted to show that control does not in fact exist.

Entrance fee—An initial or deferred transfer of money, or other property valued at an amount in excess of three months' rent, made or promised to be made as full or partial consideration for acceptance by a provider of a specified individual as a resident in a facility.

Facility—Each separate place in which a person undertakes to provide continuing care. A place is an establishment, complex, or campus at which a provider engages in the business of providing continuing care. If two or more establishments

or complexes are located on the premises, they shall be treated as separate facilities if their operations are administratively independent of each other.

Living unit—A room, apartment, cottage, or other area within a facility that is set aside for the exclusive use or control of one or more specified individuals.

Person—All corporations, associations, partnerships, or individuals, including fraternal or benevolent orders or societies.

Provider—The owner, operator, or responsible person of an institution, building, residence, or other place, whether operated for profit or not, who undertakes to provide continuing care in a facility.

Qualified actuary—A member of the American Academy of Actuaries or the Society of Actuaries or a person recognized by the commissioner as having comparable training or experience.

Resident—An individual entitled to receive continuing care in a facility.

§33.4. Severability. Where any terms or sections of this chapter are determined by a court of competent jurisdiction to be inconsistent with the Texas Continuing Care Facility Disclosure and Rehabilitation Act, as identified by this chapter, the Act will apply, but the remaining terms and sections of this chapter will continue in effect.

§33.7. Fiscal Year. A fiscal year is a period of 12 months ending on the last day of any month. A fiscal year will be recognized only if it is established as the certificate-of-authority-holder's annual accounting period, and books and records are kept corresponding to that period. The commissioner must be notified of any change of fiscal year under §33.510 of this title (relating to Change of Fiscal Year).

§33.8. Forms. The forms listed in this section are published by the State Board of Insurance and copies of the forms may be obtained from the Deputy Insurance Commissioner for Regulated Lines and Licensing, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. The State Board of Insurance adopts and incorporates herein by reference the following forms, and their use is required, where applicable, for compliance with the provisions of this chapter:

- (1) CCRC Form #1—application for certificate of authority to do business in the State of Texas under the Act, §4(c);
- (2) CCRC Form #2—application for certificate of authority to do business in the state of Texas under the Act, §4(g);
- (3) CCRC Form #3—officers and directors page;
- (4) CCRC Form #4—biographical data form;
- (5) CCRC Form #4a—instructions for completion of biographical data forms;

(6) CCRC Form #5—acknowledgement of delivery of disclosure statement;

(7) CCRC Form #6—format for disclosure statement;

(8) CCRC Form #6a—instructions for preparation of CCRC disclosure statement for filing with State Board of Insurance;

(9) CCRC Form #7—change of control statement for CCRC;

(10) CCRC Form #8—certification of changes to disclosure statement;

(11) CCRC Form #9—notice of request to release entrance fee escrow funds; and

(12) CCRC Form #10—notice of request to release funds from the reserve fund escrow account.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 16, 1989.

TRD-8901547

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: February 16, 1989

Proposal publication date: March 9, 1989

For further information, please call: (512) 463-6327

◆ ◆ ◆

Subchapter B. Facilities Qualifying for a Certificate of Authority under the Texas Continuing Care Facility Disclosure and Rehabilitation Act

• 28 TAC §§33.101-33.108

The State Board of Insurance adopts new §§33.101-33.108. Sections 33.101, 33.102, 33.105, and 33.106 are adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4031). Sections 33.103, 33.104, 33.107, and 33.108 are adopted without changes and will not be republished.

Sections 33.101-33.108 concern qualification for a certificate of authority under the Texas Continuing Care Facility Disclosure and Rehabilitation Act (the Act), §4(g). The new sections are necessary to implement the provisions of the Act, to provide protection from fraud or mismanagement for the investments of elderly consumers in continuing care retirement facilities, and to remind persons operating or developing continuing care retirement facilities of the need to comply with licensing requirements under the Act (Texas Civil Statutes, Article 8876). The adoption changes the introductory language of §33.101 to make clear that a certificate of authority will be issued to a provider for each qualifying facility. The adoption includes a change to

correct a typographical error by referring to plural facilities in §33.101(b). The adoption changes §33.102(1) to indicate that documentation other than a contract with a resident may be acceptable proof of occupancy of a living unit. In §33.105(a), this adoption includes changes to paragraphs (1) and (2) to more clearly identify the subject of the required form; a change to paragraph (3) to clarify the source who shall have certified the required copies; a change to paragraph (5) to require a certification for authentication of a recognition of tax-exempt status; and a change to paragraph (8) to require a notarized affidavit of a responsible person for authentication of qualifying documentation. The adoption includes changes to §33.105(b) and to the introductory language in §33.106 to make clear the commissioner's authority for determining when all required material is included in an application.

The new sections explain licensing requirements necessary to qualify for a certificate of authority, and establish procedures for obtaining a certificate of authority from the State Board of Insurance under the Act, §4(g), for operation of a continuing care retirement facility by providers of health-related services and other continuing care to individuals in this state.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 8876, §3, which provide that the State Board of Insurance may adopt rules as necessary to administer and enforce statutory provisions regulating providers of health-related services and other continuing care to individuals in this state.

§33.101. Issuance of Certificate of Authority under the Texas Continuing Care Facility Disclosure and Rehabilitation Act, §4(g).

(a) Pursuant to the Act, §4(g), the commissioner shall issue a certificate of authority to a provider for each facility meeting one of the following conditions:

- (1) the facility was occupied by one or more residents on September 1, 1987;
- (2) the facility was under construction on September 1, 1987;
- (3) substantial financial obligations related to the development of the facility had been incurred prior to September 1, 1987;

(b) providers owning or controlling more than one facility shall treat those facilities as separate and distinct in form and substance and shall apply for a separate certificate of authority for each.

§33.102. Evidence of Qualification under the Texas Continuing Care Facility Disclosure and Rehabilitation Act, §4(g). A provider filing an application under the Act, §4(g), shall submit convincing evidence to the commissioner that the facility meets one of the conditions set forth in that section. Each application shall be accompanied by

the notarized affidavit of the chief executive officer of the provider, or an equivalent responsible person if the provider is not a corporation, attesting to the facts that evidence the facility's qualification under §4(g). In addition, true and correct copies of the following shall be submitted, as appropriate:

(1) contract(s) with one or more residents in the facility, or other documentation evidencing occupation of the living unit(s) if the facility was occupied by one or more residents on September 1, 1987;

(2) the basic construction contract entered into between the applicant and construction company if the facility was under construction on September 1, 1987, or other supporting evidence that the facility was physically under construction on that date; or

(3) documents, such as cancelled checks, invoices, contractual arrangements, or certification by a certified public accountant of incurrence of obligations, to support the assertion that substantial financial obligations had been incurred in the development of the facility prior to September 1, 1987.

§33.105. Contents of Section 4(g) Application by Continuing Care Provider.

(a) The appropriate number of copies of the following items as applicable shall be submitted, organized as provided in §33.104 of this title (relating to Filing Requirements for Section 4(g) Application by Continuing Care Provider):

(1) CCRC Form #2 (application for certificate of authority to do business in the State of Texas under the Act, §4(g));

(2) CCRC Form #3 (officers and directors page);

(3) copy of all basic organizational documents of the applicant and amendments thereto, including articles of incorporation, certificate of incorporation, bylaws, partnership agreements, etc., certified by state of domicile;

(4) certified copy of assumed name certificate;

(5) letter from Internal Revenue Service recognizing tax-exempt status under Internal Revenue Code certified by an officer that it is a true and correct copy of the original;

(6) a chart or listing clearly representing the identities of and interrelationships among affiliates;

(7) contract between applicant and any third party for management of the facility;

(8) appropriate documents to satisfy the requirements of §33.102 of this title (relating to Evidence of Qualification under the Texas Continuing Care Facility

Disclosure and Rehabilitation Act, §4(g)), together with a notarized affidavit by the chief executive officer of the provider or an equivalent responsible person if the provider is not a corporation attesting to the facts that evidence the facility's qualifications under the Act, §4(g);

(9) any other relevant material the applicant wishes to furnish to familiarize the commissioner with the applicant's operations; and

(10) any additional information relating to items required under paragraphs (1)-(9) of this subsection, as the commissioner may require as needed for proper consideration.

(b) The 180-day period in which the commissioner shall issue an order approving or disapproving an application for a certificate of authority shall commence on the date, as determined by the commissioner, that all required material is included in the application.

§33.106. Deficient Section 4(g) Application by Continuing Care Provider. If any of the items required under §33.105 of this title (relating to Contents of §4(g) Application by Continuing Care Provider) is deemed insufficient by the commissioner, the applicant shall be notified and given 30 days from the date of notice to correct the deficiencies. If, after the 30 days have expired, the deficiencies have not been corrected, the commissioner may take any one of the following actions:

(1) return the application, in which event the applicant must completely refile in order to be considered for a certificate of authority, except that no additional filing fee need be paid; or

(2) proceed to hearing on the deficient application.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 16, 1989

TRD-8901548

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: February 16, 1989

Proposal publication date: March 9, 1989

For further information, please call: (512) 463-6327

◆ ◆ ◆
**Subchapter C. Applications by
Continuing Care Provider
for Certificate of Authority**

• 28 TAC §§33.201-33.206

The State Board of Insurance adopts new §§33.201-33.206. Sections 33.201, 33.202, and 33.204-33.206 are adopted with changes

to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4033). Section 33.203 is adopted without changes and will not be republished.

Sections 33.201-33.206 concern application by a continuing care provider for a certificate of authority under the Texas Continuing Care Facility Disclosure and Rehabilitation Act (the Act). The new sections are necessary to implement the provisions of the Act, to provide protection from fraud or mismanagement for the investments of elderly consumers in continuing care retirement facilities, and to remind persons operating or developing such facilities of the need to comply with licensing requirements under the Act (Texas Civil Statutes, Article 8876). The adoption includes a change adding a sentence in §33.201 to clarify the need for separate and distinct treatment and for a separate certificate of authority for each facility owned or controlled by the same provider. In response to a comment, the board has corrected a statutory reference in §33.202. In §33.204(a) the adoption includes changes to paragraphs (1), (2), and (3) to more clearly identify the subject of the required form, a change to paragraph (4) to indicate the need for certification or seal from the state or domicile for basic organizational documents and amendments thereto and a change to paragraph (6) to require a certification for authentication of a recognition of tax-exempt status. The adoption includes changes to §33.204(b), to the introductory language in §33.205, and to §33.206 to make clear the commissioner's authority for determining when all required material is included in an application.

The new sections explain requirements and procedures for application for a certificate of authority under the Act, and establish the procedure for application for certificate of authority under of the Act, §4(c).

Commenting against the sections was the law firm of Fulbright & Jaworski and the Air Force Village Foundation

A commenter suggested that this subchapter should contain a provision that, if a provider in good faith files a disclosure statement pursuant to the Texas Continuing Care Facility Disclosure and Rehabilitation Act, §5, and if the information contained therein is accurate as of the date of the disclosure statement, and if the commissioner of insurance has not notified the provider of any deficiency in the filing, then the disclosure statement as filed will be considered adequate for purposes of the Act, §6. The board responds that the Act, §6(n), does not provide for any representation concerning the accuracy of information on the basis of an absence of a specific determination of inadequacy.

The new sections are adopted under Texas Civil Statutes, Article 8876, §3, which provide that the State Board of Insurance may adopt rules as necessary to administer and enforce statutory provisions regulating providers of health-related services and other continuing care to individuals in this state.

§33.201. Scope. This subchapter establishes the procedure for application for certificate of authority under the Act, §4(c). Providers owning or controlling more than one facility shall treat those facilities as separate and distinct in form and substance

and shall apply for a separate certificate of authority for each. For applications pursuant to the Act, §4(g), refer to Subchapter B of this chapter.

§33.202. Incorporated Entities Only. Except for persons qualifying for certificates of authority under the Act, §4(g), the commissioner shall limit issuance of certificates of authority to incorporated entities.

§33.204. Contents of Application.

(a) The appropriate number of copies of the following items as applicable shall be submitted, organized as provided in §33.203 of this title (relating to Filing Requirements for Application):

(1) CCRC Form #1 (application for certificate of authority to do business in the State of Texas under the Act, §4(c));

(2) CCRC Form #3 (officers and directors page);

(3) CCRC Form #4 (biographical data form);

(4) basic organizational documents and all amendments thereto, with an original certification or seal from the state of domicile. These documents shall include, but not be limited to, the articles of incorporation, the bylaws, and the resolution by the board of directors certifying corporate approval of the project;

(5) certified copy of assumed name certificate;

(6) letter from Internal Revenue Service recognizing tax-exempt status under Internal Revenue Code with a certification by an officer that it is a true and correct copy of the original;

(7) chart or listing clearly presenting the identities and interrelationship among affiliates showing the percentage of each class of voting securities of each affiliate which is owned or controlled, directly or indirectly, by another affiliate, or indicating the basis of control if other than by ownership or control of voting securities;

(8) agreements establishing the escrow accounts described in the Act, §8 and §9, or a verified statement of why an escrow is not required, with such agreements to be accompanied by the following:

(A) name and address of escrow agent;

(B) names and addresses of persons under contracts or agreements with monies on deposit with the escrow agent; and

(C) statement or set of instructions that the provider will use or send to the escrow agent to request a release of funds under the provisions of the Act, §8 or §9;

(9) complete disclosure statement meeting the requirements of the Act, §6;

(10) any service contract or agreement with an affiliate;

(11) management contract if the facility will be managed on a day-to-day basis by a person other than individuals directly employed by the provider;

(12) independent feasibility study;

(13) actuarial review as defined in §33.2 of this title (relating to Definitions);

(14) all priority agreements, reservation agreements, or any other type of contract or agreement which the provider is using in solicitation or offering of contracts, contracting, or collection of funds, if not included in the disclosure statement;

(15) financial statements dated no more than 90 days prior to the application submission date, if not included in the disclosure statement;

(16) documentation evidencing a commitment to the provider for any permanent mortgage loan or other long-term financing arrangement;

(17) list or description of liens which attach to any part of the facility before, during, or after construction;

(18) legal description of real property on which the facility is or will be located; and

(19) any additional information relating to items required under paragraphs (1)-(18) of this subsection, as the commissioner may require as needed for proper consideration.

(b) The 180 day period in which the commissioner shall issue an order approving or disapproving an application for a certificate of authority shall commence on the date, as determined by the commissioner, that all required material is included in the application.

§33.205. Deficient Application. If any of the items required under §33.204 of this title (relating to Contents of Application) is deemed insufficient by the commissioner, the applicant shall be notified and given 30 days from the date of notice to correct the deficiencies. If, after the 30 days have expired, the deficiencies have not been corrected, the commissioner may take any one of the following actions:

(1) return the application, in which event the applicant must completely refile in order to be considered for a certificate of authority, except that no additional filing fee need be paid; or

(2) proceed to hearing on the deficient application.

§33.206. Hearing on Application. Following review of the application by the commissioner, a hearing shall be held in accordance with the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13(a), for the commissioner to make the determinations required under the Act, §4(c).

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 16, 1989.

TRD-8901545

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: March 9, 1989

Proposal publication date: August 16, 1988

For further information, please call: (512) 463-6327

Subchapter D. Disclosure Statement

• 28 TAC §§33.301-33.308

The State Board of Insurance adopts new §§33.301-33.308. Sections 33.302, 33.306, and 33.307 are adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4034). Sections 33.301, 33.303-33.305, and 33.308 are adopted without changes and will not be republished.

Sections 33.301-33.308 concern the disclosure statement to be filed by providers of continuing care under the Texas Continuing Care Facility Disclosure and Rehabilitation Act (the Act). The new sections are necessary to implement the requirements of the Act (Texas Civil Statutes, Article 8876), §§5-7. In response to a comment, this adoption includes a change to §3.302(a) in order to clarify the deadline for filing revised disclosure statements. In response to a comment, the board has changed a statutory reference in §33.302(d)(1). The board has added §33.306(e) to remind care providers that financial statements must comply with §33.505. The board has changed §33.307(b) to clarify what current disclosure statement must be provided to a prospective resident.

The new §33.301 would list the circumstances under which a provider must file an initial disclosure statement. New §33.302 would establish the requirements for the filing of annual disclosure statement revisions with the board. Section 33.303 would describe the procedure for filing revisions of disclosure statements during the period between annual revisions. New §33.304 would require that all disclosure statements be standardized with regard to their organization and physical makeup. New §33.305 would provide information concerning the appropriate date to be shown on the disclosure statement. New §33.306 would establish requirements for financial statements, studies, and forecasts included in the disclosure statement. Under new §33.307 a provider would be required to maintain records to reflect the delivery of dis-

closure statements in accordance with the Act to prospective residents or to persons contracting on behalf of prospective residents. New §33.308 would state that failure to abide by an order of the commissioner to amend an incomplete or incorrect disclosure statement subjects a provider's certificate of authority to suspension or revocation.

Objecting against the sections as proposed was the law firm of Fulbright and Jaworski.

The commenter asked for clarification of the deadline to filing revised disclosure statements and of the proposed disclosure statement which must be delivered to a prospective resident. In response to these comments, the board has changed §33.302(a) and §33.307(b).

The new sections are adopted under Texas Civil Statutes, Article 8876, §3, which provide that the State Board of Insurance may adopt rules as necessary to administer and enforce statutory provisions regulating providers of health-related services and other continuing care to individuals in this state.

§33.302. Annual Disclosure Statement Revision.

(a) Pursuant to the Act, §7, each provider shall file three complete revised disclosure statements with the State Board of Insurance, CCRC Section, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, not later than 120 days after the end of the provider's fiscal year. If the 120th day falls on a weekend or on a recognized state or federal holiday, then the due date shall be the first business day thereafter.

(b) The provider of a facility that was occupied by one or more residents on September 1, 1987, must file annual revised disclosure statements beginning with a statement that covers the provider's most recent fiscal year that begins on or after September 1, 1987.

(c) The appropriate filing fee calculated according to the Act, §22, shall accompany the filing. The fee is nonrefundable.

(d) The revised disclosure statement must include a statement describing any material differences between:

(1) the estimated income statements filed under the Act, §6(k) and (1), as a part of the disclosure statement filed after the start of the provider's most recently completed fiscal year; and

(2) the actual result of operations during that fiscal year together with the revised estimated income statements filed as a part of the revised disclosure statement.

§33.306. Financial Statement, Studies, Forecasts.

(a) Financial statements shall be based on generally accepted accounting principles (GAAP) for the individual facility and not on a consolidated basis with

other affiliates.

(b) Any opinion regarding the financial statements shall be limited to the individual facility.

(c) Generally accepted accounting principles (GAAP) shall be subordinate to any conflicting provision or procedure adopted in this chapter that relates to the financial statement presentation or accounting procedure.

(d) Studies and/or forecasts must disclose the basic assumptions used.

(e) The financial statements shall comply with §33.505 of this title (relating to Financial Condition).

§33.307. Delivery of Disclosure Statement.

(a) Pursuant to the Act, §6, before the execution of a contract to provide continuing care, or before the transfer of the entrance fee to a provider by, or on behalf of, a prospective resident, whichever occurs first, the provider must deliver a current disclosure statement to the person with whom the contract is to be made.

(b) Only the disclosure statement most recently filed with the State Board of Insurance shall be considered current for the purpose of the Act or may be delivered under the Act, §6.

(c) To assure compliance with the delivery requirement, the provider shall obtain the signature of each individual or the legal representative of each individual who contracts with the provider on CCRC Form #5 (Acknowledgment of Delivery of Disclosure Statement). Completed forms must be maintained on file by the provider and are subject to inspection by the commissioner.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 16, 1989.

TRD-8901544

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: March 9, 1989

Proposal publication date: August 16, 1988

For further information, please call: (512) 463-6327

Subchapter E. Escrow Accounts

• 28 TAC §§33.401-33.407

The State Board of Insurance adopts new §§33.401-33.406. Section 33.401 and §33.402 are adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 Tex Reg 4035). Sections 33.403-33.407 are adopted without changes and will not be re-

published.

Sections 33.401-33.406 concern escrow accounts to be maintained for continuing care retirement facilities. The new sections are necessary to implement the requirements of the Texas Continuing Care Facility Disclosure and Rehabilitation Act (Texas Civil Statutes, Article 8876), §8 and §9. In response to comments, the adoption includes a change to §33.401(a) in order to clarify the relationship between escrow accounts and governmental obligation. The board has also changed §33.402(a) to correct the spelling of specified.

New §33.401 provides for the establishment of entrance fee escrow accounts by providers of facilities that were not occupied by one or more residents on September 1, 1987, which enter into continuing care contracts after that date. Section 33.402 states the conditions under which entrance fees in escrow must be returned to the persons who paid them to providers. New §33.403 sets forth a procedure for determining when entrance fees in escrow may be released to providers. Section 33.403 provides for the calculation of the total amount of entrance fees in escrow for a particular facility that may be released to the provider before the facility is complete. New §33.405 provides for the establishment of reserve fund escrow accounts with respect to continuing care retirement facilities. New §33.406 places a limit on the amount of funds in the reserve fund escrow which may be released to a provider. Section 33.407 requires that the escrow agreements for both the entrance fee and reserve fund escrow accounts contain provisions obligating the escrow agent to notify the board when a provider requests a release of funds.

Commenting against the sections as proposed was the law firm of Fullbright and Jaworski.

The comments urged clarification of the relationship between escrow accounts and governmental obligation. In response to the comment, the board has changed §33.401(a).

The new sections are adopted under the Insurance Code, Article 1.04, which authorizes the State Board of Insurance to determine rules in accordance with laws of this state, and under Texas Civil Statutes, Article 8876, §3, which provide that the State Board of Insurance may adopt rules as necessary to administer and enforce legislation regulating providers of continuing care to individuals in this state.

§33.401. Entrance Fee Escrow Accounts.

(a) The provider of a facility which was not occupied by one or more residents on September 1, 1987, that enters into continuing care contracts on or after September 1, 1987, shall establish an entrance fee escrow account pursuant to the Act, §8. The escrow account must be established with a bank or trust company that is located in this state as escrow agent. The escrow account must be established before the provider enters into any contract for the provision of continuing care. The funds deposited therein shall be fully secured by obligations of the United States government or shall be kept and maintained in an account separate and apart from the provider's business ac-

counts and fully covered by federal deposit insurance.

(b) When funds are received from a resident or prospective resident, the provider shall deliver a written receipt to the resident. A copy of each receipt together with each entrance fee and each portion of an entrance fee shall be deposited with the escrow agent not later than 72 hours after the fee is received by the provider.

(c) The escrow agent shall issue a statement indicating the status of a resident's balance in the escrow account at the request of the resident or prospective resident, the provider, or the commissioner.

(d) Accrued interest on entrance fees held in escrow shall be the property of the provider unless otherwise provided in the contract.

(e) The provider of a facility which was occupied by one or more residents on September 1, 1987, that enters into continuing care contracts on or after September 1, 1987, shall comply with the escrow requirements under the Act, §8, and this subchapter not later than September 1, 1990, unless the time is extended by the commissioner, pursuant to §33.108 of this title (relating to Transition Period).

§33.402. Refund of Entrance Fee.

(a) If a person who has contracted with a provider elects to rescind the contract as set out in the Act, §6(o), any money or property transferred to the provider, other than periodic charges specified in the contract and applicable only to the period a living unit was actually occupied by the resident, must be returned in full within 30 days.

(b) If an entrance fee in escrow is not released to the provider under the provisions of the Act, §8, or placed in the reserve fund escrow not later than 36 months after the date on which any portion of the entrance fee is received by the provider, or within a greater time specified by the provider in the disclosure statement delivered to the persons with whom the contract for continuing care to which the entrance fee pertains was made, the escrow agent shall return the fee to the person who paid it to the provider.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 16, 1989.

TRD-8901548 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date: March 9, 1989

Proposal publication date: August 16, 1988

For further information, please call: (512) 463-8327

Subchapter F. Ongoing Regulatory Requirements

• 28 TAC §§33.501-33.511

The State Board of Insurance adopts new §§33.501-33.511. Sections 33.505, 33.506, 33.508, and 33.511 are adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4041). Sections 33.501-33.504, 33.507, 33.509, and 33.510 are adopted without changes and will not be republished.

Sections 33.501-33.511 concern regulatory requirements with respect to continuing care retirement facilities after issuance of certificates of authority for the facilities. The new sections are necessary to assure that the activities and financial condition of continuing care retirement facilities are monitored as contemplated by the Texas Continuing Care Facility Disclosure and Rehabilitation Act (the Act) and to remind providers of continuing care of regulatory requirements under the Act (Texas Civil Statutes, Article 8876). In order to clarify requirements for a sound financial condition, this adoption includes changes to §33.505(a)(1) and to the introductory language in §33.505(a). These changes are intended to reflect recent national experience. This adoption also includes a change to the introductory language in §33.506(a) to limit requirements of costly actuarial reviews to facilities offering guarantees of care in excess of one year. Section 33.508 and §33.511 have been changed to clarify reference to forms.

New §33.501 would establish record-keeping conditions for facilities. New §33.502 would reiterate that the commissioner of insurance has authority to make inquiries of any person to determine compliance with the Act. New §33.503 would provide for financial examinations by the commissioner. New §33.504 would require providers to maintain a file of advertising material to be available for the commissioner's inspection. New §33.505 would establish criteria for determining the financial condition of a facility and would provide for possible measures to be taken when the balance sheet for a facility reflects a net deficit. The section would also set forth details concerning the financial statements to be filed by nonprofit providers. New §33.506 would provide requirements for the filing of actuarial reviews and would describe what constitutes a satisfactory actuarial balance of the financial condition of a facility. New §33.507 reflects the commissioner's authority under the Act relating to supervision, rehabilitation, or liquidation of a facility under certain conditions. New §33.508 would require that a particular procedure be used in connection with any contemplated transfer of a certificate of authority. New §33.509 would require a provider to file with the commissioner any management contract with a third party within 30 days of the provider's having entered into the contract. New §33.510 would provide for advance notification to the commissioner if a provider intends to change its fiscal year. New §33.511 would provide for notification to the commissioner of any change of persons responsible for the management or direction of a facility.

Commenting against the sections as proposed was the Air Force Village Foundation.

The comments urged that requirements for a sound financial condition should reflect recent national experience. In response to this comment, the board has changed §33.505(a)(1).

The new sections are adopted under Texas Civil Statutes, Article 8876, §3, which provide that the State Board of Insurance may adopt rules as necessary to administer and enforce statutory provisions regulating providers of health-related services and other continuing care to individuals in this state.

§33.505. Financial Condition.

(a) A facility shall be considered financially unsound if it does not maintain, at a minimum, compliance with all of the following paragraphs.

(1) Minimal financial balance. The provider is considered to be maintaining a minimal financial balance if resources that are available for the facility's residents (including the actuarial present value of periodic fees expected to be paid in the future by current residents) are reasonably equivalent to or greater than the actuarial present value of the expected costs of performing all remaining obligations to such residents under their contracts.

(2) Ability to meet current financial obligations. The provider must maintain the ability to meet current financial obligations of the facility.

(3) Ability to meet projections. The provider must reasonably meet its projected occupancy goals or cash projections filed with the commissioner.

(b) Additional financial information. The commissioner may require information or reports in addition to those contained in the disclosure statement as necessary to monitor the financial condition of the facility and administer and enforce the Act. These may include, but are not limited to, interim financial statements.

(c) Balance sheet with net deficit. If any balance sheet filed with the disclosure statement shows a net deficit, the provider or management of the facility, may be required to submit a plan or program to the commissioner delineating action to be taken to remove such deficit. The plan or program shall include, but not be limited to, the following:

(1) the reasons or causes of such deficit balance;

(2) obstacles or conditions that exist which may prevent action or limit action to be taken by management;

(3) expected effects of the net deficit balance on the following:

(A) cash flow of the facility within the next six months;

(B) overall financial condition within the next six months; and

(C) cash flow of the facility within the period starting with the ending date of the filed interim statement date through the remaining fiscal year; and

(4) specific action taken by management this interim period to manage or control factors that are contributing to the deficit balance.

(d) Long-term debt sinking fund requirements. The establishment of a sinking fund as a result of the issuance of long-term debt shall be treated as separate and apart from the requirements of the Act, §9.

(e) The basic financial statements to be filed with the disclosure statement for a nonprofit provider or facility shall satisfy the following requirements.

(1) The balance sheet on a comparative basis shall reflect at least the following liabilities.

(A) Continuing care providers which are financed through financing authorities by the issuance of tax-exempt bonds or other long-term obligations shall establish as liabilities those tax-exempt obligations which are issued for their benefit and it is understood that the provider is responsible for repayment when the obligations are issued.

(B) Liability to provide future services is the excess of the present value of the facility's obligations to provide future services to current residents over the present value of related future revenue. No accounting entry is required if the present value of future related revenues exceeds the present value of the obligations for future services. If the present value of related future revenue is less than the present value of the obligation, no accounting entry need be made unless the liability is greater than the unamortized entrance fees, in which case a liability is recognized and an expense recorded.

(C) The nonrefundable entrance fees paid by a resident upon entering into a continuing care contract shall be treated as deferred revenue to be amortized over each group of residents' estimated remaining lives using a method that properly matches revenues with expenses.

(D) The refundable portion of the entrance fee is recorded as a liability and is not amortized.

(2) Among the basic financial statements filed with the disclosure statement must be:

(A) a statement of activity (a statement of support, revenue, expense);

(B) a statement of changes in fund balances; and

(C) a statement of changes in financial position prepared on a cash flow basis.

§33.506. Actuarial Review Requirements.

(a) Applicability. This section applies to a provider of a facility whose contracts offer future guarantees of long-term nursing care in excess of one year which develop actuarial liabilities.

(b) Initial filing requirements.

(1) Except as provided in paragraph (2) of this subsection, the provider of a facility subject to this section shall file with the commissioner its most current actuarial review, as defined in §33.2 of this title (relating to Definitions) before September 1, 1988.

(2) The provider of a facility that does not qualify for certificate of authority under the Act, §4(g), shall submit an actuarial review, if applicable, along with its application, as one of the filing requirements for a certificate of authority as provided in §33.204 of this title (relating to Contents of Application).

(3) Any actuarial review filed under paragraph (1) or paragraph (2) of this subsection must have been performed within five years of the date of filing.

(c) Satisfactory actuarial balance. The financial condition of a facility is considered to be in satisfactory actuarial balance at a given date if:

(1) its resources that are available for current residents (including the actuarial present value of periodic fees expected to be paid in the future by current residents) are equal to the actuarial present value of the expected costs of performing all remaining obligations to such residents under their contracts, with appropriate provision for surplus;

(2) for a typical cohort of new residents the sum of the advance fee paid at or before occupancy plus the actuarial present value at occupancy of periodic fees is equal to the actuarial present value at occupancy of performing all obligations assumed by the provider for such residents, with appropriate provision for surplus; and

(3) cash balances are projected to remain positive.

(d) Subsequent actuarial reviews. Subsequent actuarial reviews shall be filed at five-year intervals from the date of completion of the initial actuarial review filed under subsection (b)(1) or (b)(2) of this section.

§33.508. Transfer of Certificate of Authority. A transfer of a certificate of authority

is subject to approval by the commissioner. Any transfer of a certificate of authority to a third party shall be determined based on whether a transfer of control as defined in §33.2 of this title (relating to Definitions) will take place. Any person who seeks to acquire control of a facility shall file a statement as set forth in CCRC Form #7, (change of control statement for CCRC). A hearing may be held at the commissioner's discretion.

§33.511. Changes in Responsible Person. Within 60 days, notice of any additions, deletions, and modifications to the provider's officers, directors, trustees, managing or general partner, any person who has at least 10% interest in the provider, or any person engaged in the day to day management of the facility, other than an individual directly employed by the provider, must be given to the commissioner by completing CCRC Form #3 (officers and directors page) and CCRC Form #4 (biographical data form).

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 16, 1989.

TRD-8901543

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: March 9, 1989

Proposal publication date: August 16, 1988

For further information, please call: (512) 463-6327

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

Case Management

The Texas Department of Human Services (DHS) adopts amendments to §§48.3904, 48.3905, and 48.8901, concerning adult foster care, in its Community Care for Aged and Disabled chapter. Section 48.3904 is adopted with changes to the proposed text as published in the October 28, 1988, issue of the *Texas Register* (13 TexReg 5464). Section 48.3905 and §48.8901 are adopted without changes and will not be republished.

The sections are justified to give foster care providers a clearer understanding of their relationship to the department.

The sections will function by eliminating the term "certification" and replacing it with the term "enrollment."

During the public comment period, the de-

partment received comments from one organization. An attorney commented on the behalf of the Texas Organization of Residential Care Homes. The following is a summary of the comment and the department's response.

The commenter maintained that, because the terms "enrollment" and "certification" are different in meaning, the department should not change them if there is no corresponding change in the regulation of homes. The department agrees that the terms are different but maintains that the term "enrollment" more accurately reflects the relationship with the department. The change in terminology does not affect the manner in which the department regulates its contracted adult foster care homes. The term "certification" was misleading because it implied that the department approved a foster care home for the general public instead of for DHS clients

The department, however, has initiated a minor editorial change to the text of §48.3904(f) to eliminate redundancy

• 40 TAC §48.3904, §48.3905

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs

§48.3904. *Special Casework Procedures for Adult Foster Care.*

(a) (No change.)

(b) Enrollment of an adult foster home means that the home is meeting all standards or appropriate waivers have been obtained.

(c) The caseworker, with supervisory approval, may disenroll an adult foster home if the provider is not able to care for the client(s) because of health reasons. The provider is required to submit, when requested by the department, a physician's statement that he is physically and mentally able to continue providing personal care and 24-hour supervision.

(d) Adult foster care providers may be disenrolled for noncompliance with the minimum standards for adult foster care or other program rules. Adult foster care providers and applicants have a right to appeal the decision to not approve their application to be a provider or to disenroll the home. The administrative law judge is the department employee appointed to preside over the hearing.

(e) Representatives of the Texas Department of Human Services may enter the premises of the DHS enrolled foster home at any time to make inspections or to privately interview the clients receiving assistance from the Texas Department of Human Services.

(f) The Texas Department of Human Services pays the daily rate for up to 14 days of leave for each 12-consecutive-month period when an authorized client is away from the foster home. Payment for

leave in excess of 14 days per year is the responsibility of the client. Any bed-hold charges are between the client and provider because they have negotiated a monthly room and board agreement.

(g) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901565

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 27, 1989

Proposal publication date: October 28, 1988

For further information, please call: (512) 450-3765

◆ ◆ ◆
Minimum Standards

• 40 TAC §48.8901

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on February 17, 1989.

TRD-8901566

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 27, 1989.

Proposal publication date: October 28, 1988.

For further information, please call: (512) 450-3765

◆ ◆ ◆
Chapter 49. Child Protective Services

Subchapter A. Administration

The Texas Department of Human Services (DHS) adopts an amendment to §49.104, the repeal of §§49.307, 49.501-49.511, and 49.513, and new §§49.501-49.517 in its Child Protective Services chapter. New §§49.501, 49.505, and 49.514 are adopted with changes to the proposed text as published in the August 23, 1988, issue of the *Texas Register* (13 TexReg 4175). The amendment to §49.104, the repeals of §§49.307, 49.501-49.511, and 49.513, and new §§49.502-49.504, 49.506-49.513, and 49.515-49.517 are adopted without changes to the proposed text and will not be republished.

The amendment, repeals, and new sections are justified to clarify the department's definitions, policies, and procedures for intake and investigation of reports of child abuse and neglect.

The amendment, repeals, and new sections will function by establishing agency policies that conform to and implement the 70th Texas Legislature's amendments to the Texas Family Code, Chapter 34, Report of Child Abuse, in 1987. The amendment, repeals, and new sections define terminology used in the statutory definitions of child abuse and neglect; clarify types of harm to children that do not involve the statutory definitions; set priorities and time frames for intake, investigation, and notification of law enforcement agencies; articulate requirements for investigative interviews and examinations; detail the actions required to conclude an investigation; and provide for notification and administrative review of the findings of an investigation.

The department received two written comments on the proposed sections during the public comment period and an additional oral comment at a public hearing on October 28, 1988. The commenters included representatives of the following organizations: executives of Texas Homes for Children and the Sherwood and Myrtle Foster Home for Children. A summary of the comments and the department's responses follows.

One commenter stated that the department's delineation of situations that do not constitute child abuse or neglect under the statutory definitions in the Texas Family Code, §34.012, fails to provide sufficient general protection to children and service to families. The commenter recommended that DHS change the name of the Child Protective Services (CPS) Program and ask the legislature to reduce the department's budget by 50%.

In general, this comment and those of the other commenters expressed an opinion that the proposed sections appear to reflect greater concern about caseload size than about protecting children. As was indicated in the preamble to the proposed sections, the sections are intended to implement the mandates of the 70th Legislature. In the course of adopting statutory definitions for abuse and neglect, the legislature clearly expressed an intention to limit the CPS investigative role to situations of abuse and neglect. However, the legislature certainly did not intend, nor does the department intend, that CPS abdicate its responsibility to protect children who are abused and neglected. The comments indicate that some of the proposed sections might be misunderstood as limiting the CPS role too much in these situations.

Although the department considers the sections as proposed to be consistent with the legislative mandate, several changes have been made to address the concerns of the commenters and to reduce the potential for misunderstanding. For example, the statement in §49.501 that CPS decides whether or not to investigate a report based on the statutory definitions has been modified to indicate that the intake and investigation processes rely on the definitions. This change reflects the department's intention that if a report is vague, but nonetheless appears to involve abuse or neglect, it will be investigated.

Likewise, §49.503 has been modified to reflect the department's intention that intake staff ensure that people who make reports of child abuse and neglect understand the existing definitions of abuse and neglect, help them make their reports effectively, and if a

report clearly does not involve child abuse or neglect, provide information and refer the reporter to other services which may help the child and family.

Another commenter also objected to the department's delineation of situations outside its jurisdiction and suggested that there should be a mechanism for court-ordered intervention when intervention is in the best interest of the child. The protection of the child is in fact the primary purpose of DHS investigations of reports of child abuse and neglect; but Chapter 34 of the Texas Family Code, Chapter 34, does not authorize DHS intervention for "best interest" only. However, as has already been described, the department has made several changes to address some of the commenter's concerns in this regard.

The third commenter stated that the inclusion of the phrase "choking, suffocating, and shaking" in the definition of substantial harm confuses substantial harm with a genuine threat of substantial harm, which is defined separately. The commenter also suggested that the list of threatening actions should include the phrase "hitting a child on the side of the head." The department agrees with this comment and has revised the text of new §49.501 accordingly.

The same commenter also stated that the priority system set forth in the proposed sections addresses the immediacy of harm to a child, but not the severity. The commenter indicated that this apparent oversight makes it unclear whether the priority system encompasses all reports of child abuse and neglect covered under the law. The department believes that its priority system does address the severity of the reported abuse or neglect by referring to threat of death or serious harm as an essential criterion for assigning a priority. However, to make it clear that the priority system covers all reports of abuse or neglect, the department has revised the text of new §49.505 to state explicitly that all reports appearing to involve the statutory definitions of abuse or neglect that are not assigned to Priority I are assigned to Priority II.

The department has also initiated a minor editorial change in the text of new §49.514 to clarify and improve the accuracy of the section.

• 40 TAC §49.104

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901561 Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 15, 1989.

Proposal publication date: August 23, 1988.

For further information, please call: (512) 450-3765

Subchapter C. Eligibility for Child Protective Services

• 40 TAC §49.307

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901562 Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 15, 1989.

Proposal publication date: August 23, 1988.

For further information, please call: (512) 450-3765

Subchapter E. Intake and Investigation Services

• 40 TAC §§49.501-49.511, 49.513

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901563 Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 15, 1989.

Proposal publication date: August 23, 1988.

For further information, please call: (512) 450-3765

• 40 TAC §§49.501-49.517

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with authority to administer public and medical assistance programs.

§49.501. Terminology Used in Statutory Definitions of Child Abuse and Neglect and Person Responsible for a Child's Care, Custody, or Welfare. The CPS intake and investigation processes use the statutory definitions of "abuse," "neglect," and "person responsible for a child's care, custody, or welfare" in the Texas Family Code, §34.012. The following words and phrases occur in the statutory definitions. The following clarifications and definitions of

these words and phrases apply throughout CPS' receipt and investigation of reports of child abuse and neglect.

(1) Absent parent. A parent who is not primarily responsible for the child's care on an ongoing basis because of a divorce, separation, incarceration, or for some other reason.

(2) Accident. An unforeseen event that causes or threatens physical injury despite prudent efforts to avoid the risk of injury.

(3) "...causing, permitting, encouraging, engaging in, or allowing the photographing...." A condition of the statutory definition of sexual abuse. It is met whether or not the child participates voluntarily.

(4) "...compelling or encouraging the child to engage in sexual conduct..." A condition of the statutory definition of sexual abuse. It is met whether the child actually engages in sexual conduct or simply faces a substantial risk of doing so.

(5) Genuine threat. A verbal or behavioral expression of intent that appears true, likely, or believable; a realistic likelihood of harm based on past history or present circumstances; a substantial risk; or actions including, but not limited to, choking, suffocating, or shaking a child, or hitting a child on the head.

(6) Guardian. Anyone named as "guardian of the person of a child" by a probate court order.

(7) "...if the child is present only to arouse or gratify...." A condition of the statutory definition of sexual abuse. Provided that or as long as the child is present to arouse or gratify.

(8) Incest. Any sexually oriented practice with a child by a person who knows or should know that he or she and the child are related by consanguinity or affinity.

(9) Managing or possessory conservator. A person responsible for a child as the result of a district court order pursuant to the Texas Family Code, Chapter 14.

(10) "...necessary to sustain the life or health of the child...." A condition of the statutory definition of physical neglect. It is met if the failure to provide food, clothing, or shelter results in an observable and material impairment to the child's growth, development, or functioning, or in a substantial risk of observable and material impairment in the foreseeable future.

(11) Observable and material impairment. Discernible and substantial damage or deterioration.

(12) Pornographic. Containing an image that depicts a child under 18 at the time the image was made, who is involved in, performing, or simulating a sexually oriented act.

Chapter 72. Memoranda of Understanding with Other State Agencies

Memorandum of Understanding Concerning Elderly Inmates

• 40 TAC §72.801

The Texas Department of Human Services (DHS) adopts new §72.801, concerning continuity of care for elderly inmates, in its Memoranda of Understanding with Other State Agencies chapter. The section is adopted without changes to the proposed text published in the December 20, 1988, issue of the *Texas Register* (13 TexReg 6264).

The new section is justified to assure a continuum of care for elderly inmates released from prison.

The new section will function by clarifying the responsibilities of the department, the Texas Department on Aging (TDoA), the Texas Department of Corrections (TDC), and the Texas Bureau of Pardons and Paroles (BPP) and by establishing a continuity of care program for elderly inmates (age 60 and older) released from TDC.

Five comments were received regarding adoption of the proposed section. There were no objections to the proposed section. The directors of the Balmorhea Senior Center and the Seagraves Senior Citizen Center, and the Governor's Office of Elderly Affairs of the State of Louisiana all favor the proposed section. The director of Rankin Senior Citizen Services stated that that organization offers the same courtesies to people age 60 and over regardless of their stature in life. The executive director of the Texas Association of Regional Councils stated that they have no comments at this time.

The section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901580

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 22, 1989

Proposal publication date: December 20, 1988

For further information, please call: (512) 450-3765



(13) "...reasonable discipline. . . that does not expose the child to a substantial risk of harm...." An exception to the statutory definition of physical abuse. It applies if the correction of the child's behavior does not result in or risk substantial harm from physical injury, and if the discipline is administered with due regard to preventing harm.

(14) "...reasonable effort to prevent...." Actions that an ordinary and prudent person would take to stop an event from occurring.

(15) Sexual assault. Any sexually oriented act or practice that results in harm or in substantial risk of harm to a child's growth, development, or psychological functioning.

(16) Sodomy. Anal or oral copulation with another person or an animal.

(17) Substantial harm. Real and significant physical injury or damage to a child that includes, but is not limited to, bruises, cuts, welts, skull or other bone fractures, brain damage, subdural hematoma, internal injuries, burns, scalds, wounds, poisoning, human bites, concussions, and dislocations and sprains.

(18) Substantial risk. Real and significant possibility or likelihood.

§49.505. Priorities for Intake and Investigation.

(a) To establish time frames for investigations, DHS divides reports of child abuse and neglect into two priority groups:

(1) Priority I reports concern children who appear to face an immediate threat of death or serious harm as a result of the alleged abuse or neglect;

(2) Priority II reports represent allegations of abuse or neglect in which there is no immediate threat of death or serious harm. All reports of abuse and neglect that are not assigned to Priority I are assigned to Priority II.

(b) Workers must initiate an investigation within 24 hours after receiving a Priority I report or within 10 days after receiving a Priority II report.

(c) DHS bases priority group assignments on its assessment of the degree of harm or risk to the child. To assess the degree of harm or risk, the department evaluates the immediacy of the risk and the severity of the harm. The evaluation involves a number of factors, including information about the alleged perpetrator, the child's age and condition, the specific nature of the harm, and whether or not the harm has actually occurred.

§49.514. Notification about Results.

(a) DHS must notify the following parties about the disposition of an investigation:

(1) the parents of the alleged victim(s);

(2) the person(s) named as the alleged perpetrator(s), when not a parent;

(3) each alleged victim who was interviewed about the abuse or neglect;

(4) the absent parent(s) of the alleged victim(s), unless the absent parent(s) is abusive, dangerous, or otherwise unlikely to protect the child;

(5) identified complainants; and

(6) the policy making body of a facility that is not operated, licensed, certified, or registered by a state agency, if the investigation relates to an allegation of abuse or neglect in the facility, as provided in the Texas Family Code, §34.05(e).

(b) Except in adjudicated cases, within 15 days after completing an investigation, DHS must give each person designated as an alleged perpetrator written notice of the findings of the investigation.

(c) If an identified complainant is not a professional working with the family, DHS's notification discloses only that CPS investigated the report and whether or not CPS staff will work with the family.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901584

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: March 15, 1989

Proposal publication date: August 23, 1988

For further information, please call: (512) 450-3765





Name: Chris McIntosh

Grade: 6

School: Evers Park Elementary, Denton

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Wednesday, March 1, 1989, 1:30 p.m. The Imported Fire Ant Advisory Board of the Texas Department of Agriculture will meet in the Second Floor Conference Room, 611 South Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous meeting and hear status reports on fund raising from public sources, private sources, update on economic impact study, and university reports.

Contact: Rog Mulder, P.O. Box 12847, Austin, Texas 78711, (512) 463-7535.

Filed: February 16, 1989, 2:58 p.m.

TRD-8901539

Texas Commission on Alcohol and Drug Abuse

Tuesday, February 28, 1989, 1:30 p.m. The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet in Room 118, Stephen F. Austin Building, Austin. According to the agenda, the board will approve of December 15, 1988, minutes; public comment; act on Advisory Council appointments; approve agency signatures for state comptroller's office; act on revised policy; statement of general policy; act on adoption of proposed rule 141.23, concerning minutes and recordings; act on revised policy concerning officers; act on proposed revisions to DWI education program standards; act on joint resolution with TDMHMR; hear report on legislative priorities and recommendations for the 71st legislature; hear chairman's report; and hear executive director's report. The board will also meet in executive session to consider employment matters including the classification of specific positions held by six individual employees, pursuant to Texas Civil Statutes, Article 6252-17, §2.23.

Contact: Becky Davis or Larry Goodman, 1705 Guadalupe, Austin, Texas 78701, (512) 463-5510.

Filed: February 21, 1989, 9:50 a.m.

TRD-8901648

State Board of Barber Examiners

Tuesday, February 28, 1989, 1:30 p.m. The Board for the State Board of Barber Examiners will meet in Suite 103, 9101 Burnet Road, Austin. According to the agenda summary, the board will meet in executive session at a special called meeting, pursuant to Texas Civil Statutes, Article 6252-17, §2(g), to conduct an administrative hearing on the discharge grievance of a former employee.

Contact: Jo King McCrorey, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: February 17, 1989, 11:10 a.m.

TRD-8901585

Texas Department of Commerce-Tourism Division

Tuesday, March 7, 1989, 10 a.m. The Tourism Advisory Committee for the Texas Department of Commerce-Tourism Division, will meet in Room 1140, First City Centre, 816 Congress Avenue, Austin. According to the agenda summary, the committee will introduce new staff; consider legislative tape, Mexican Program overview, target marketing plan, research plan, Hospitality Program, and Texas Department of Public Safety (new public service announcement); and legislative overview discussions (Commerce, Texas Tourist Council, Texas Restaurant Association, and Texas Hotel and Motel Association).

Contact: Margaret Younger, Suite 1190, First City Centre, Tourism Division, Commerce, 816 Congress Avenue, Austin, Texas, (512) 320-1043.

Filed: February 16, 1989, 11:48 a.m.

TRD-8901526

Texas Cosmetology Commission

Monday, February 27, 1989, 9 a.m. The Texas Cosmetology Commission will meet at the Radisson Plaza Hotel, 700 San Jacinto Street, Austin. According to the agenda summary, the commission will discuss removal of officers; discuss and possibly adopt district benchmarks; discuss and possibly repeal Texas Administrative Codes; discuss sanitary rule 83.15; discuss agency finances from 1986 through 1988; discuss TEC hearing regarding Norman Jenkins; approve requests regarding student hours; approve resolution; adopt commission meeting minutes; other business; discuss personnel problems; and discussion by inspectors.

Contact: Janis Rebold, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: February 17, 1989, 3:39 p.m.

TRD-8901621

Tuesday, February 28, 1989, 8:30 a.m. The Texas Cosmetology Commission will meet at the Radisson Plaza Hotel, 700 San Jacinto Street, Austin. According to the agenda summary, the commission will meet in executive session to interview 11 selected executive director applicants.

Contact: Janis Rebold, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: February 17, 1989, 3:39 p.m.

TRD-8901622

Daughters of the Republic of Texas, Inc.

Friday-Saturday, February 17-18, 1989, 7 p.m. and 8 a.m., respectively. The Board of Management for the Daughters of the Republic of Texas, Inc., met for an emergency agenda revision at the Ramada Inn, Capitol, Austin. According to the agenda, the board added approval of expenditure of funds for purchase and installation of new carpet in DRT Research Library. The emergency status was necessary due to a reasonably unforeseen situation requiring immedi-

ate action by the Daughters of the Republic of Texas Board of Management.

Contact: Mrs. Billie C. Averitte, 901 North Cedar, Palestine, Texas 75801, (214) 723-2170.

Filed: February 17, 1989, 2:32 p.m.

TRD-8901613

Texas State Board of Dental Examiners.

Friday and Saturday, March 10 and 11, 1989, 8 a.m. dally. The Texas State Board of Dental Examiners will meet in the Hyatt Regency Hotel, 1200 Louisiana Street, Houston. According to the agenda summary, the board will consider disciplinary hearings; discussion of dental and dental hygiene exam criteria; discussion of requests for reinstatement of drug permits; request of Dr. Melvin Huckaby for removal of probation; reports of board committees; discussion of direct/personal supervision of N20 analgesia; discussion of dental laboratory rule amendments; approval of anesthesia applications; requests for variances from direct supervision rule; motion for reinstatement, Dr. Charles A. Rhyne; approval of nitrous oxide courses to be offered at UT, Houston, and Baylor; report on board finances; emergency adoption of rule pertaining to informal settlement conferences; discussion of root planning; appointments to Dental Hygiene Advisory Committee; and miscellaneous matters and appearance by the members of the public and profession. The board will also meet in executive session to discuss litigation suits.

Contact: Crockett Camp, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754, (512) 834-6021.

Filed: February 16, 1989, 3:32 p.m.

TRD-8901531

Interagency Council on Early Childhood Intervention

Tuesday, February 21, 1989, 1:30 p.m. The Interagency Council on Early Childhood Intervention met in emergency session in the Commissioner's Conference Room M-741, 1100 West 49th Street, Austin. According to the agenda, the council considered fiscal and other administrative items concerning the council. The emergency status was necessary because reasonable unforeseeable circumstances occurred which prevented regular posting of meeting notice.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: February 17, 1989, 4:43 p.m.

TRD-8901635

Texas Education Agency

Friday, February 24, 1989, 1:30 p.m. The Ad Hoc Committee on Investment Practices of the Permanent School Fund of the State Board of Education will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the committee will review investment practices of the permanent school fund; investigate the use of outside investment advisors and money managers; review the asset allocation between equities and bonds in the permanent school fund; review the performance of the permanent school fund; results of the study of the prudent man rule and its effects on the board members; and recommendation for appointments to the Investment Advisory Committee of the permanent school fund. All members of the board are invited to participate.

Contact: W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 16, 1989, 1:55 p.m.

TRD-8901535

Advisory Commission on State Emergency Communications

Wednesday, March 1, 1989. Various committees for the Advisory Commission on State Emergency Communications will meet in the Training Building, Texas Department of Public Safety, 5805 North Lamar Boulevard, Austin. Times and agendas follow.

10 a.m. The Administration Committee will call order and recognize guests; hear report on conflict of interest; status report of regional 9-1-1 planning activities; update on pending legislation affecting 9-1-1; financial report; consider any new business; and hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 17, 1989, 1:45 p.m.

TRD-8901608

10 a.m. The Public Information Committee will call order and recognize guests; update on 9-1-1 Day 1989; hear report on development of public service announcements in conjunction with the Austin Police Department; results of the TDC telemarketing survey; consider any new business; and hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 17, 1989, 1:45 p.m.

TRD-8901607

10:30 a.m. The Finance Committee will call order and recognize guests; hear financial report concerning update on surcharge collections, and expenditures and revenue; update on Southwestern Bell's proposed 9-1-1 tariff; continued discussion on dedicated trunking; discuss definitions related to applicability of the equalization surcharge; consider any new business; and hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 17, 1989, 1:45 p.m.

TRD-8901606

1 p.m. The ACSEC Commission will recognize guests; hear committee reports from the Public Information Committee, Administration Committee, and Finance Committee; hear public comment; consider approval of February minutes; and consider any new business to come before the board.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 17, 1989, 1:45 p.m.

TRD-8901609

Employees Retirement System of Texas

Tuesday, February 28, 1989, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet in Room 401, ERS Building, 18th and Brazos Street, Austin. According to the agenda summary, the board will review/approve minutes to trustee meetings; consider/approve board principles/guidelines; consider/act on exempt positions/salaries for Data Processing Division; consider/act on 1988-1989 operating budget adjustment for MSA accounting system; Rudd and Wisdom Actuarial Valuation on Judicial Retirement System of Texas Plan Two; consider/act on proposed legislation including ERS authority to administer Texas Uniform Group Insurance Program; consider/act on Group Insurance Advisory Committee recommendation concerning pre-existing conditions limitation in Texas uniform group insurance program; consider/act on adoption to proposed amendment to trustee rule §81.3(c)(2); consider/act on adoption of proposed amendment to trustee rule §81.7(i); and consider/act on Group Insurance Advisory Committee election calendar.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas (512) 476-6431, ext. 213.

Filed: February 17, 1989, 2:45 p.m.

TRD-8901615

Texas Department of Health

Friday, March 3, 1989, noon. The On-Site Wastewater Treatment Research Council of the Texas Department of Health will meet in the Conference Room, Center for Environmental Research, Hornsby Bend Wastewater and Treatment Facility, 2210 South FM Road 973, Austin. According to the agenda summary, the council will tour facilities; approve minutes of last meeting; and discuss department staff reports, update on sunset review process, pending legislation, and requests for proposals.

Contact: Stephen J. Tencza, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7293.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901574

State Department of Highways and Public Transportation

Monday, February 27, 1989, 10 a.m. The State Highways and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Room 101-A, Auditorium, First Floor, Dewitt C. Greer Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will execute contract awards and routine minute orders, consider presentations from previous public hearing dockets as necessary. Review staff reports relative to planning and construction programs and projects. Recess commission meeting and convene public hearing at 11 a.m. to receive public views, testimony, and data for addition of a newly completed segment of IH-20 (fr. milepost 486.461 nr. Dallas to milepost 595.263 nr. Longview) to those segments of the interstate system for which a speed limit of 65 miles per hour has been established. Upon completion of public hearing, commission will adjourn the public hearing and reconvene the regular commission meeting.

Contact: Lois Jean Turner, 11th and Brazos Streets, Austin, Texas, (512) 463-8616.

Filed: February 17, 1989, 2:03 p.m.

TRD-8901610

Texas Hospital Equipment Financing Council

Friday, February 24, 1989, 2 p.m. The Texas Hospital Equipment Financing Council will meet in Room 103, John H. Reagan Building, 15th and Congress, Austin. According to the agenda, the council will approve minutes of the previous meeting; discuss proposal to amend documents in connection with the council's outstanding

Series 1985 bonds in order to implement a revolving loan fund for eligible borrowers, and possible action in connection therewith, including hiring of consultants; discuss proposal to implement the Shearson HeARTS financing program and possible action in connection therewith, including hiring of consultants and authorization to pursue legislative changes necessary to implement such program, possible hiring or administrative staff/program administrator for the Council, and the state auditor's report and authorization to execute necessary documentation in connection therewith; and discuss and approve payment of fees and expenses of the council, including payment of premium in connection with director's bond.

Contact: C.D. Polumbo, 411 West 13th Street, Austin, Texas 78701, (512) 463-2018.

Filed: February 16, 1989, 3:48 p.m.

TRD-8901533

Texas Housing Agency

Friday, February 24, 1989, 10 a.m. The Finance and Audit Committee for the Texas Housing Agency will meet in the THA Conference Room, 811 Barton Springs Road, Suite 300, Austin. According to the agenda summary, the committee will consider and possibly act on state auditory and possibly comment on preliminary draft of report by the state auditor; hear report on financial statements of the agency; restructure proposal for San Jacinto Gardens; criteria and process for selecting minority bond counsel; proposed multi-family co-manager applications; request for proposal from financial institutions desiring to serve as the trustee paying agent/registrant in a trustee resource group; staff recommendation concerning proposals from MBank and Fannie Mae; alternative structure for remarketing bond series 1987 B, C, and D, (Fannie Mae); and review and assess cooperative housing concept as an alternative low to moderate program with adaptive regulations to the Texas market. (Co-op Inerchange).

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78704, (512) 474-2974.

Filed: February 16, 1989, 4:42 p.m.

TRD-8901542

Tuesday, February 28, 1989. The Texas Housing Agency will meet in the THS Conference Room, 811 Barton Springs, Suite 300, Austin. Times and agendas follow.

9 a.m. The Programs Committee will review, consider, and possibly act on MIS reports concerning programs and portfolio for the period ending December 31, 1988. Review, consider, and possibly act on MIS reports concerning REO portfolio for the period ending December 31, 1988. Review,

consider, and possibly act on reports concerning management and disposition of REO properties. Review, consider, and possibly act on purchase and reservation activity for programs 1987B (8.05%) and 1987A (9.55%).

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78704, (512) 474-2974.

Filed: February 17, 1989, 4:49 p.m.

TRD-8901640

10 a.m. The Personnel and Planning Committee will consider and possibly act on procedures and techniques for agency planning over the next two years. Consider and possibly act on planning goals for the agency in the 90, 180, and 360-day timeframe. Review, consider, and possibly act on report concerning conversion of residential mortgage revenue bonds 1987 B, C, and D from short term to long term issues including changes to existing mortgage program policies, procedures, type of collateral purchased, and potential for private placement of bonds.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78704, (512) 474-2974.

Filed: February 17, 1989, 4:49 p.m.

TRD-8901636

11 a.m. The Finance and Audit Committee will review, consider and possibly act on report by the state auditor, report on financial statements of the agency, restructure proposal for the San Jacinto Gardens, criteria and process for selecting minority bond counsel, proposed multi-family co-manager applications, and RFP from financial institutions desiring to serve as the trustee/paying agent/registrant in a trustee resource group.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78704, (512) 474-2974.

Filed: February 17, 1989, 4:49 p.m.

TRD-8901638

1 p.m. The Board of Directors will review, consider, and possibly act on MIS reports concerning programs and portfolio for the period ending December 31, 1988. Review, consider, and possibly act on MIS reports concerning REO portfolio for the period ending December 31, 1988. Review, consider, and possibly act on reports concerning management and disposition of REO properties. Review, consider, and possibly act on purchase and reservation activity for programs 1987B (8.05%) and 1987A (9.55%).

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78704, (512) 474-2974.

Filed: February 17, 1989, 4:49 p.m.

TRD-8901639

◆ ◆ ◆
University of Houston System

Wednesday, February 22, 1989, 8 a.m. The Board of Regents of the University of Houston System met in the Zodiac Room, Conrad Hilton College Hotel, University of Houston, 4800 Calhoun, Houston. According to the agenda summary, the board discussed and/or acted upon: minutes, consent docket, various reports, evaluation of investment managers, investment objectives, art acquisition contract, project cost increase, redesign of electrical distribution, office lease-downtown, school of communication, personnel recommendations, department transfer, dual employment, report on ethics instruction, licensing agreement, guidelines for fiscal year 1990 budget development, banking resolution, fiscal year 1988 financial statement, report on supercomputer, gift acceptance reports and appointment of consultants-housing.

Contact: Peggy Cervenka, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

Filed: February 17, 1989, 2:44 p.m.

TRD-8901614

◆ ◆ ◆
Texas Commission on Human Rights

Tuesday, March 7, 1989, 10 a.m. The Texas Commission on Human Rights will meet in Room 503-G, Sam Houston Building, Austin. According to the agenda, the commission will discuss and vote on agenda item covered in executive session as necessary or required; welcome guests; approve minutes; hear administrative reports; discuss pending legislation affecting the commission; consider status of EEO compliance training; worksharing agreement; discuss commissioner issues; and review unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: February 16, 1989, 10:58 a.m.

TRD-8901524

◆ ◆ ◆
State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

Tuesday, February 28, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 100221-Whether disciplinary action should be taken against Ronnie Gene Ford, Waco, who holds a Group I, legal reserve life insurance agent's license and a local recording agent's license issued by the board.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:47 p.m.

TRD-8901623

Tuesday, February 28, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10259-Whether disciplinary action should be taken against Sidney R. Harris, Jr., Hewitt, who holds a group II, health and accident insurance agent's license issued by the board.

Contact: Wendy Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:47 p.m.

TRD-8901624

Tuesday, February 28, 1989, 10 a.m. The board will meet in Room 414 to consider proposed amendments to 28 TAC §§21.102, 21.104, and 21.702.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: February 17, 1989, 3:38 p.m.

TRD-8901631

Tuesday, February 28, 1989, 10 a.m. The board will meet in Room 414, to consider emergency amendment to 28 TAC §9.1; final action on 28 TAC §§7.1501-7.1502 and 28 TAC §15.25; extension of emergency effectiveness of 28 TAC §3.408; board orders on several different matters as itemized on the complete agenda; discuss personnel matters, litigation, and solvency matters; and fill position of Senior Deputy Commissioner for Fiscal Affairs.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6328.

Filed: February 17, 1989, 11:44 a.m.

TRD-8901584

Tuesday, February 28, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10241-Renewal application of Joe O. Alcala, Pearsall, for a solicitor for a local recording agent's license.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:46 p.m.

TRD-8901625

Wednesday, March 1, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10245-Whether disciplinary action should be taken against Larry Lou McCumber, San Antonio, who holds a group I, life, health, and accident insurance agent's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:46 p.m.

TRD-8901626

Wednesday, March 1, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10246-Whether disciplinary action should be taken against Bobby Jack Baker, Fort Worth, who holds a group I, legal reserve life insurance agent's license.

Contact: Wendy Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:46 p.m.

TRD-8901627

Friday, March 3, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10257-Whether disciplinary action should be taken against Neill Walter Portermain, McKinney, who holds a group II, health and accident insurance agent's license and through International Agency Underwriter's, Inc. holds a managing general agent's license issued by the board.

Contact: Wendy Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:46 p.m.

TRD-8901629

Monday, March 6, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10268-Application of Georgia U.S. Corporation and its ultimate parent, Nationale-Nederland N.V. to acquire control of Southland Life Insurance Company, Dallas.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:46 p.m.

TRD-8901630

Monday, March 6, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10253-Application of Ronald Clayton Wilkins, Ferris, for a resident insurance adjuster's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 17, 1989, 3:46 p.m.

TRD-8901628

◆ ◆ ◆
Texas State Board of Medical Examiners

Thursday, March 2, 1989, 9 a.m. The District Review Committee #4 for the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda summary, the committee will review multiple medical lia-

bility cases; and will meet in executive session under authority of Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and attorney general opinion 1974, H-484.

Contact: Jean Davis, Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 16, 1989, 11:02 a.m.

TRD-8901532

Texas National Guard Armory Board

Sunday, February 26, 1989, 10 a.m. The Texas National Guard Armory Board will meet in the Conference Room, Building 64, Camp Mabry. According to the agenda summary, the board will approve minutes of the previous meeting; consider administrative matters, construction/renovation/maintenance update, property/leases, and establish date of next meeting.

Contact: Sandra Hille, P.O. Box 5218, Austin, Texas 78763, (512) 451-6394/6143.

Filed: February 16, 1989, 3:32 p.m.

TRD-8901532

Pan American University

Thursday, March 2, 1989, 4:30 p.m. The Board of Regents of Pan American University will meet in the Boardroom, Administration Building, Pan American University, Edinburg. According to the agenda, the board will meet in executive session to consider contemplated litigation (Article 6252-17, §2(e)) and status of settlement negotiations/litigation over computer software and consultant contracts.

Contact: Miguel A. Nevarez, 1201 West University Drive, Edinburg, Texas 78539, (512) 381-2100.

Filed: February 21, 1989, 9:45 a.m.

TRD-8901647

Board of Pardons and Paroles

Tuesday, February 21, 1989, 9:30 a.m. The Board of Pardons and Paroles submitted an emergency revised agenda for a meeting held at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board proposed to address the Texas jail and prison crowding crisis. The emergency status was necessary because board members cannot adjust their schedules to meet at any other reasonable time.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-7249.

Filed: February 17, 1989, 3:23 p.m.

TRD-8901620

Monday-Friday, February 27-28, 1989, and March 1-3, 1989, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: February 17, 1989, 10:33 a.m.

TRD-8901582

Tuesday, February 28, 1989, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: February 17, 1989, 10:32 a.m.

TRD-8901581

Texas State Board of Professional Counselors

Wednesday, March 1, 1989, 9 a.m. The Texas State Board of Examiners of Professional Counselors will meet at the Ramada Inn-Airport, 5600 North IH-35, Austin. Agendas follow.

The Rules Supervisors, Specialties, and Reciprocity Committee will consider action on: complaints process, investigation, hearings, suspension of licenses and surrender of licenses; acceptable criteria for supervisors of applicants experience; rule changes for inactive status of licensees; drug and alcohol specialty; art therapy specialty; and other rule changes relating to the licensure and regulation of professional counselors.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901573

The board will approve minutes of prior meeting and consider: licensure applications and renewals; appeals concerning continuing education courses (Katy Greenwood, Ph.D., and others); expenditures; new brochure for application packets; applications; appeals; closure of files; complaint proce-

dures; newsletter; news columns or additional public relations projects; drug and alcohol specialty; art therapy specialty; amendments to board rules 22 TAC §§681.1-681.260; attorney general response to board request for opinion concerning licensees in exempt work settings; legislative amendment concerning licensing of professional counselors in exempt work settings; legislation generally concerning the board and professional counselors; and other matters not requiring board action.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901572

The Professional Relations Committee will consider action regarding newsletter.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901580

The Testing, Licensing, Continuing Education, and Renewals Committee will consider: action regarding rule changes concerning continuing education and license renewals; and report on development of new brochure for application packets.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901579

The Complaint Committee will report on closure on files and discuss update on complaint procedure.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901578

The Applications, Ethics, Suspensions, and Revocations Committee will consider applications, appeals, and the code of ethics.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901577

The Public Relations Committee will consider action regarding new columns or additional public relations projects.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901576

The Fees and Budget Committee will con-

sider action regarding expenditures.

Contact: Don F. Rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

Filed: February 16, 1989, 4:32 p.m.

TRD-8901575

◆ ◆ ◆
Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Wednesday, February 22, 1989, 9 a.m. The Hearings Division met in emergency session to consider order of dismissal on grounds of withdrawal by petitioners in Dockets 8480 and 8482-Petition of Sharen Schranz, et al., for relief from electric utility rates set by the City of Austin and appeal of the cities of Rollingwood and West Lake Hills from electric utility rates set by the City of Austin. The emergency status was necessary because statutory deadline requires aggressive procedural schedule; deciding if case should be dismissed now will save great litigation expense.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 16, 1989, 3:08 p.m.

TRD-8901536

Friday, March 3, 1989, 1:30 p.m. The Hearings Division will consider Docket 8422-Petition of Rita Blanca Electric Cooperative to implement large power development rate.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 17, 1989, 3:04 p.m.

TRD-8901618

Monday, March 13, 1989, 10 a.m. The Hearings Division will consider Docket 8425-Application of Houston Lighting and Power Company for authority to change rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 16, 1989, 3:08 p.m.

TRD-8901537

Monday, March 13, 1989, 10 a.m. The Hearings Division will consider Dockets 6668 and 6753-Inquiry of the commission into prudence and efficiency of the planning and management of the construction of the South Texas Nuclear Project; and inquiry of the commission into treatment of the proceeds of the south Texas project settlement.

Contact: Phillip A. Holder, 7800 Shoal

Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 16, 1989, 3:08 p.m.

TRD-8901538

Monday, April 3, 1989, 10 a.m. The Hearings Division will consider Docket 7952-Complaint of Metro-Link Telecom, Inc. against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 17, 1989, 3:03 p.m.

TRD-8901616

Monday, April 24, 1989, 10 a.m. The Hearings Division will consider Docket 8628-Application of GTE Southwest Inc. for tariff revisions to tel-assistance eligibility requirements.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 17, 1989, 3:04 p.m.

TRD-8901617

◆ ◆ ◆
Texas Racing Commission

Monday, February 27, 1989, 10 a.m. The Texas Racing Commission will meet in the Third Floor Auditorium, First State Bank Building, 400 West 15th Street, Austin. According to the agenda summary, the commission will discuss parameters of and distributions under the Texas Bred Incentive Programs; hear presentation by Jeff Jooper and David Davenport; consider commission rules for horse and greyhound racing, commission annual report and vote to approve, requests for registration as nonpari-mutuel racetrack and vote, resolution to allow county fair racetracks to operate as nonpari-mutuel tracks, requests for leave to amend racetrack applications and vote, amendments to proposal for changes to Texas Racing Act and vote, and amendments to legislative budget request for 1990-1991 biennium and vote; and hear public testimony.

Contact: Paula Cochran Carter, 400 West 15th Street, Austin, Texas 78701, (512) 476-7223.

Filed: February 17, 1989, 4:01 p.m.

TRD-8901633

◆ ◆ ◆
Railroad Commission of Texas

Monday, February 27, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7257.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901586

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7251.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901587

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7274.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901588

The commission will consider and act on the Flight Division director's report on division administration, budget, procedures and personnel matters.

Contact: Ken Fossler, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6787.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901589

The commission will consider various matters within the regulatory jurisdiction of the Railroad Commission of Texas. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7015.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901590

The commission will consider and act on the Office of Information Services Division Director's report on division administration,

budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12970, Austin, Texas 78753, (512) 463-6710.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901591

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901592

The commission will consider and act on the Legal Division's report on division administration, budget, procedures, and personnel matters; proposed and pending litigation.

Contact: Cue Boykin, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901593

The commission submitted a revised agenda to consider currently pending legislation and other matters involving potential amendments to the Mineral Interest Pooling Act (Texas Natural Resources Code §102.001 et. seq.).

Contact: Andy Taylor, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-6924.

Filed: February 17, 1989, 11:57 a.m.

TRD-8901594

The commission submitted a revised agenda to convene in executive session to consider litigation matters currently pending in Travis County District Court, including cause 441,552, Terra Resources, Inc. v. Railroad Commission of Texas.

Contact: Cue D. Boykin, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-6921.

Filed: February 17, 1989, 11:55 a.m.

TRD-8901595

The commission will consider various matters falling within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meetings and such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to, scheduling an item in its entirety or for particular action at a future time or date.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901596

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Andy Taylor, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6924.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901598

The commission will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6755.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901597

The commission will consider an oral argument for rule 37 case 104, 881: Pennzoil Exp. & Production Company; Riddle Lease, Well 1; Wildcat and Meagan (Wilcox 9000) Fields; Goliad County.

Contact: Glenn Jordan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6922.

Filed: February 17, 1989, 11:53 a.m.

TRD-8901599

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline, and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6981.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901600

The commission will consider and act on the Office of Research and Statistical Analysis Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ceryl Payne, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6976.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901601

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may

take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

Contact: Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901602

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time or date.

Contact: Karen Kornell, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7094.

Filed: February 17, 1989, 11:54 a.m.

TRD-08901603

State Securities Board

Wednesday, March 15, 1989, 10 a.m. The Securities Commissioner for the State Securities Board will meet at 1800 San Jacinto, Austin. According to the agenda summary, the commissioner will determine whether an order should be issued revoking the registration of Southern Star Energy, Inc. as a securities dealer and the registration of Bernard Emil Albright as the registered principal of Southern Star Energy, Inc. and whether a cease and desist order should be issued prohibiting the sale of securities issued by Southern Star Energy, Inc. and Bernard Emil Albright.

Contact: John Morgan, 1800 San Jacinto, Austin, Texas, (512) 474-2233.

Filed: February 16, 1989, 10:12 a.m.

TRD-8901520

Texas State Technical Institute

Friday, March 3, 1989, 9:45 a.m. The Executive Committee of the Board of Regents will meet on the Fifth Floor, 2223 West Loop South, and at 11 a. m. at 800 Gessner, Houston. According to the agenda summary, the committee will discuss economic development in Texas and the role of TSTI in the economic development.

Contact: Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

Filed: February 17, 1989, 3:38 p.m.

TRD-8901632

Transportation Audit Committee

Monday, February 27, 1989, 3 p.m. The Transportation Audit Committee created by House Bill 89, 68th Legislature, Second Called Session, will meet in Room 101-A, First Floor, Dewitt C. Greer Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the committee will consider a presentation by the State Department of Highways and Public Transportation (SDHPT) of an updated progress report and adoption of the department's (SDHPT) implementation progress report (January 1989) in response to the management audit of department operations (as directed by House Bill 89, Second Called Session, 68th Legislature, and conducted by Price Waterhouse).

Contact: Vic Holubec, 11th and Brazos, Austin, Texas 78701, (512) 463-8622.

Filed: February 17, 1989, 2:04 p.m.

TRD-8901611

University Interscholastic League

Wednesday, February 22, 1989, 1 p.m. The Waiver Review Board of the University Interscholastic League met in Room 2.110, Thompson Conference Center, 26th and Red River Streets, University of Texas Campus, Austin. According to the agenda summary, the board appealed a waiver to determine student eligibility.

Contact: Bob Young, (512) 471-5883.

Filed: February 17, 1989, 9:29 a.m.

TRD-8901559

Regional Meetings

Meetings Filed February 16, 1989

The Burnet County Appraisal District, Appraisal Review Board, met at 215 South Pierce, Burnet, on February 23, 1989, at 10 a.m. Information may be obtained from Amy Shrader, Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Capital Area Rural Transportation System (CARTS), Board of Directors, met in the Conference Room, CARTS 511 East First Street, Austin, on February 23, 1989, at 9:30 a.m. Information may be obtained from Edna M. Burroughs, 5111 East First Street, Austin, Texas 78702, (512) 389-1011.

The Golden Crescent Service Delivery Area, Private Industry Council, Inc., met at 1301 East Rio Grande, Victoria, on February 22, 1989, at 6:30 p.m. Information may be obtained from Cleve F. Schoener, P.O. Box 2149, Victoria, Texas 77902.

The Jack County Appraisal District, Board of Directors, met at the Los Creek Office Building, 216-D South Main, Jacksboro, on February 21, 1989, at 7 p.m. Information may be obtained from Treva G. Epperson, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Middle Rio Grande Development Council, Texas Review and Comment System Committee, met for an emergency agenda revision at the Holiday Inn, 920 East Main Street, Uvalde, on February 17, 1989, at 10 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, met at the Pecan Valley Mental Health and Mental Retardation Region Clinical Office, 104 Charles Street, Granbury, on February 22, 1989, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

TRD-8901521

Meetings Filed February 17, 1989

The Alamo Area Council of Governments, Area Judges of Alamo Service Delivery Area and the Budget and Workplan Committee, met in Rooms 420 and 441 (respectively), Atlee B. Ayers Building, San Antonio, on February 22, 1989, at 12:30 and 1 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, San Antonio, Texas 78205, (512) 225-5201.

The Austin-Travis County Mental Health Mental Retardation, Finance and Control Committee, met in Suite 500, 611 South Congress Avenue, Austin, on February 22, 1989, at noon. The Board of Trustees met in Suite 104 at the same location, on February 23, 1989, at 7 a.m. Information may be obtained from Sharon Taylor, (512) 447-4141.

The Dallas Area Rapid Transit, Mobility Impaired Committee, Budget and Finance Committee, and Planning and Development Committee, met in the Boardroom, 601 Pacific Avenue, Dallas, on February 21, 1989, at 1 p.m., 2 p.m., and 4 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Education Service Center, Region XV, Board of Directors, met in Conference Room 1, 612 South Irene Street, San Angelo, on February 23, 1989, 1:30 p.m. Information may be obtained from Clyde Warren, 612 South Irene Street, San Angelo, Texas 76903.

The Golden Crescent Regional Planning Commission, Board of Directors, met at the GCRPC Boardroom, Building 102, Re-

gional Airport, Victoria, on February 22, 1989, at 5 p.m. The Audit and Budget Committee, Energy Operations Committee, Finance and Administration Committee, Natural Resources Committee, and Planning and Public Policy Committee will meet at 3700 Lake Austin Boulevard, Austin, on the same date at 9 a.m. The Board of Directors will meet at the same location on February 23, 1989, at 8:30 a.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Gulf Bend MHMR Center, Board of Trustees, met at 306 Broadway, Cuero, on February 23, 1989, at noon. Information may be obtained from Bill Dillard, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

The Lower Rio Grande Valley Development Council, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on February 23, 1989, at 1:30 p.m. Information may be obtained from Robert A. Chandler or Ken Jones, 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481.

The Middle Rio Grande Development Council, Private Industry Council, met at Crystal City Memorial Library, 101 East Dimmit, Crystal City, on February 20, 1989, at 1 p.m. Information may be obtained from Juan Pablo Velez, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The MHMR Authority of Brazos Valley, Board of Trustees, met at 190 West Trinity, Madisonville, on February 23, 1989, at noon. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467.

The Texas Panhandle Mental Health Authority, Board of Trustees, met in the Boardroom, 1200 Wallace Boulevard, Killgore, on February 23, 1989, at 10:30 a.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

The Texas Rural Communities, Board of Directors, will meet at 314 Highland Mall Boulevard, Austin, on March 2, 1989, at 9 a.m. Information may be obtained from Jim Bacon, 314 Highland Mall Boulevard, Suite 103, Austin, Texas 78752, (512) 458-1003.

The South Texas Development Council, Board of Directors, will meet in the Commissioner's Courtroom, Courthouse Annex, Zapata, on February 28, 1989, at 11 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The Central Appraisal District of Taylor County, Board of Directors, met at 1534 South Treadaway, Abilene, on February 23, 1989, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Texas Water Conservation Association Risk Management Fund, met in the Nueces Room, Stouffer Hotel, Austin, on February 21 and 22, 1989, at 6 p. m. and 8 a.m., respectively. Information may be obtained from Leroy Goodson, 206 San Jacinto Building, Austin, Texas 78701, (512) 472-7216.

The Wise County Appraisal District, Board of Directors, will meet in the Boardroom, 206 South State Street, Decatur, on March 9, 1989, at 9 a.m. Information may be obtained from Brenda Jones, 206 South

State Street, Decatur, Texas 76234, (817) 627-3081, ext. 70.

TRD-8901555

◆ ◆ ◆
**Meetings Filed February 21,
1989**

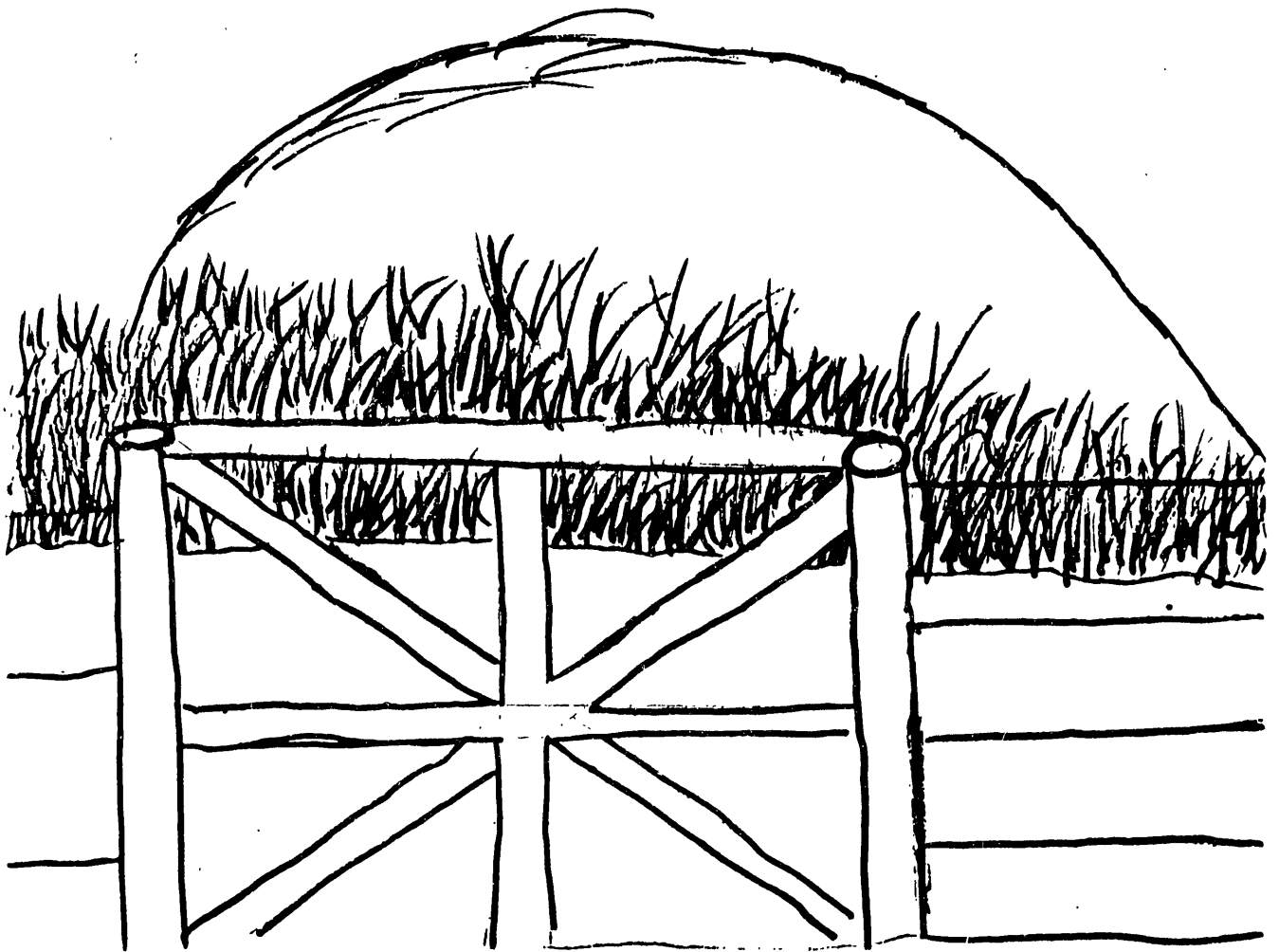
The Bastrop County Appraisal District, Board of Directors, will meet at 1200 Cedar Street, Bastrop, on February 24, 1989, at 2 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Education Service Center, Region VIII, Board of Directors, met at F.M. Road 1734, Mount Pleasant, on February 23, 1989, at 7 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mount Pleasant, Texas 75455.

The Lower Colorado River Authority, Board of Directors, met at 3700 Lake Austin Boulevard, Austin, on February 22, 1989, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas (512) 473-3520.

TRD-8901637

◆ ◆ ◆



Name: Gaither Jones
Grade: 6
School: Evers Park Elementary, Denton

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board

Correction of Error

The Texas Air Control Board submitted a proposed amendment which contained errors as published in the February 14, 1989, issue of the *Texas Register* (14 TexReg 840).

In §118.5, paragraph (1)-(3) should read:

"(1) Identification of all sources of air contaminants specified in Table 1 and VOC to account for at least 95% of the total major stationary source emissions for each contaminant specified in Table 1 and VOC [volatile organic compounds];

"(2) The approximate amount of each air contaminant specified in Table 1 and VOC from each facility;

"(3) A description of the specified actions to be taken during a Level 1 episode and the amount of emissions reduction expected for each air contaminant specified in Table 1 and VOC;"



Notice of Contested Case Hearing

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to consider whether or not a special permit should be issued to Gohmann Asphalt and Construction of Texas, Inc. (the applicant), to construct a hot mix asphalt plant at a location 1,000 feet north of Risinger Road West, and directly east of the MKT Railroad in Fort Worth, Tarrant County.

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m. on April 11, 1989, at the TACB Central Office, Room 332, 6330 Highway 290 East, Austin.

What the Applicant Must Prove. This hearing is a contested case hearing under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13. It is generally conducted like a trial in district court. The applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the requirements of the Texas Clean Air Act, §3.27, Texas Civil Statutes, Article 4477-5, (the Act), and TACB §116.7. These requirements include that the proposed facility: will emit less than 250 tons of carbon monoxide or nitrogen oxides or 25 tons of any other air contaminant (except for carbon dioxide, water, nitrogen, methane, ethane, hydrogen and oxygen); will comply with applicable TACB and federal regulations; and will use best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating emissions.

Deadline for Requesting to be a Party. At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the applicant and TACB staff. Any person

affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to hearings examiner Bill Ehret and make sure that this request is actually received at the TACB Central Office, 6330 Highway 290 East, Austin, Texas 78723 by 5 p.m. on March 3, 1989. The examiner cannot grant party status after that deadline, unless there is good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to the TACB before publication of this notice will not be considered as a request for party status. The examiner will make a final decision on party status at the prehearing conference.

Prehearing Conference. The examiner has scheduled a prehearing conference on March 14, 1989, at 1:30 p.m. at the TACB Central Office, Room 332, 6330 Highway 290 East, Austin. At this conference, the examiner will consider any motions of the parties but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

Public Attendance and Testimony. Members of the general public may attend the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin, at (512) 451-5711 extension 350, a day or two prior to the hearing date in order to confirm the setting, since continuances are sometimes granted.

Any person who wants to give testimony at the hearing, but who does not want to be a party, may call the TACB Legal Division at (512) 451-5711, extension 350, to find out the names and addresses of all admitted parties who may be contacted about the possibility of presenting testimony.

Information About the Application and TACB Rules. Information about the application and copies of the TACB's rules and regulations are available at the TACB Regional Office, 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, and at the TACB Central Office, 6330 Highway 290 East, Austin, Texas 78723.

Legal Authority. This hearing is called and will be conducted under the authority of the Act, §§3.15, 3.16, 3.17, 3.27, and 3.271, and TACB procedural rules 103.11(3), 103.31, and 103.41.

Issued in Austin, Texas on February 13, 1989.

TRD-8901484 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: February 15, 1989

For further information, please call (512) 451-5711, ext. 354



State Banking Board

Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on Tuesday, April 18, 1989, at 2601 North

Lamar Boulevard, Austin, on the charter application for Bank of the West, El Paso, El Paso County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on February 15, 1989.

TRD-8901534 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: February 16, 1989

For further information, please call (512) 479-1200

◆ ◆ ◆
Texas Department of Commerce

**Weekly Report on the 1989 Allocation
of the State Ceiling on Certain Private
Activity Bonds**

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1988 is \$839,250,000.

State legislation, Texas Civil Statutes, Article 5190.9(a) (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$279,750,000, with \$186,500,000 available to the local housing authorities and \$93,250,000 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$209,812,500 and the amount for all other bonds requiring an allocation is \$349,687,500.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, February 6, 1989-February 10, 1989.

Weekly report on the 1989 allocation of the state ceiling on certain private activity bonds as pursuant to Texas Civil Statutes, Article 5190.9(a).

Total amount of state ceiling remaining unreserved for the \$279,750,000 subceiling for qualified mortgage bonds under the Act as of February 10, 1988: \$93,250,000.

Total amount of state ceiling remaining unreserved for the \$209,812,500 subceiling for state-voted issues under the Act as of February 10, 1988: \$209, 812,500.

Total amount of state ceiling remaining unreserved for the \$349,687,500 subceiling for all other bonds under the Act as of February 10, 1989: \$502,500.

Total amount of the \$839,250,000 state ceiling remaining unreserved as of February 10, 1989: \$303,565,000.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from February 6, 1989-February 10, 1989: none.

Comprehensive listing of bonds issued and delivered as pursuant to the Act from February 6, 1988-February 10, 1989: Brazos River Authority, Texas Utilities Electric Company, Comanche Peak Electric Station, Water Pollution Control Facility and Solid Waste Disposal Facility, \$100,000,000.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901500 J William Lauderback
Executive Director
Texas Department of Commerce

Filed: February 15, 1989

For further information, please call (512) 472-5059

◆ ◆ ◆
**Office of Consumer Credit
Commissioner
Notice of Rate Ceilings**

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer⁽³⁾/Agri- cultural/Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	02/20/89-02/26/89	18.00%	18.00%
Monthly Rate Art. 1.04(c) ⁽¹⁾	02/01/89-02/28/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/89-03/31/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	01/01/89-03/31/89	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) ⁽³⁾	01/01/89-03/31/89	15.21%	N.A.

Standard Annual Rate - Art. 1.04(a) (2) ⁽²⁾	01/01/89-03/31/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	01/01/89-03/31/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	01/01/89-03/31/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	02/01/89-02/28/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on February 13, 1989.

TRD-8901483 Al Endsley
Consumer Credit Commissioner

Filed: February 15, 1989

For further information, please call: (512) 479-1280

◆ ◆ ◆

Texas Department of Health Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioactive material license. Radioactive Material License Number L01825, issued to Texas Nuclear Corporation (mailing address: Texas Nuclear Corporation, Ramsey Engineering Company, P.O. Box 9267, Austin, Texas 78766).

The amendment to this license would authorize Texas Nuclear Corporation to increase the total activity of the sealed source inventory, specified in Part B of the license, to 2000 curries.

The Division of Licensing, Registration, and Standards has determined that: a) the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; b) the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; c) the issuance of the license amendment should not be inimical to public health and safety, or have a detrimental impact on the environment; and d) the licensee satisfied any applicable special requirements of the *Texas Regulations for control of Radiation* (TRCR).

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR 13.6. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the

county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas on February 16, 1989

TRD-0901540 Robert A. Maclean, MD
Deputy Commissioner for Professional
Service
Texas Department of Health

Filed: February 16, 1989

For further information, please call (512) 835-7000

Proposed Radioactive Material

Notice is hereby given by the Texas Department of Health that it proposes to amend the following radioactive material license: L03653 issued to URI, Inc. (mailing address: URI, Inc., 12377 Merit Drive, Suite 750, LB 14, Dallas, Texas 75251) for the expansion of the Kingville Dome Project licensed area located in Kleberg county, about eight miles southeast of Kingsville, and about six miles northwest of Baffin Bay. This amendment would authorize, approximately, 1,588 additional acres, adjacent to the current 547 acres licensed area, for a total of about 2,035 acres licensed area available for in situ mining of uranium at that site.

An environmental assessment (TBRC EA-14-1S), titled *Environmental Assessment Related to Expansion of the URI, Inc., Kingsville Dome Project, Kleberg County, Texas, License No. L03653*, dated December 30, 1988, and a one-page supplement to TBRC EA-14-1S, titled "Minor Modification of the Proposed License Area Boundary of the Expanded URI, Inc. Kingsville Dome Project", dated January 25, 1989, have been prepared and are available through this agency. This notice affords the opportunity for public comments within 30 days of the date of publication of this notice.

The Division of Licensing, Registration, and Standards has determined that: a) the applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with *Texas Regulations for Control of Radiation* (TRCR) in such a manner as to minimize danger to public health and safety and the environment; b) the applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety and the environment; c) the applicant has demonstrated financial capability to conduct the proposed activity including all costs associated with decommissioning, decontamination, disposal, reclamation,

and long-term care and maintenance; d) the applicant satisfies any applicable special requirements in TRCR, Part 43; and, therefore, e) the amendment to the license should not be inimical to public health and safety, or have a long-term detrimental impact on the environment.

This notice affords the opportunity for a public hearing upon the proposed amendment to the license. The public hearing on the amendment of the license will be held if the agency has received written request for hearing no later than 5 p.m., 30 days from the date of publication of this notice in the *Texas Register*, from a person affected. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A hearing may be requested by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is to be represented by an attorney, the name and address of the attorney also must be stated. Should no request for a public hearing be timely filed, the license will be amended.

Should a timely request be made, a hearing shall be conducted pursuant to the provisions of the Radiation Control Act, Texas Civil Statutes, Article 4590f, §§6, 6A, 11, 11A, 12A, and 14; the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a; the formal hearing procedures of the Texas Department of Health, 25 TAC §1.21 et seq.; the *Texas Regulations for Control of Radiation*, Parts 11, 12, 13, 21, 22, 41, and 43; and the conditions of the proposed Radioactive Material License L03653 and convened as follows: Student Union Building, Room 221-B, Texas A & I University, Kingsville, Texas, April 4, 1989, at 9 a.m.

The purposes of the hearing, if requested, are to establish jurisdiction; to designate parties and to take evidence, if requested, on whether a person qualified as a person affected--a person must be present in person or by representative at this hearing in order to be designated a party; to delineate issues; to set the discovery schedule, if discovery is requested by an affected person; to hold the contested case hearing; to take evidence from interested persons subject to cross-examination; and, if necessary, to recess to a time and date certain to continue the hearing on the merits.

All persons affected and interested persons shall have the right to appear at the hearing, if held, present evidence, and be represented by counsel. The cost of a written hearing transcript may be assessed against one or more of the designated parties. Failure to appear without prior notice in writing to the hearing examiner may be construed as a withdrawal of the request for hearing.

Copies of all relevant material are available for public inspection and copying at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189, (512) 835-7000, or by visiting 1212 East Anderson Lane, Austin.

Issued in Austin, Texas on February 15, 1989.

TRD-8901541 Robert A. MacLean, M.D.
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: February 16, 1989

For further information, please call (512) 835-7000

◆ ◆ ◆
**Texas Higher Education Coordinating
Board**

Notice of Meeting

The Part-Time Faculty Study Committee will meet on Friday, February 24, 1989, at 10:30 a.m. The meeting will be held in Room 209 at the Bevington Reed Building at 200 East Riverside Drive in Austin. For additional information contact Cristina De La Fuente at (512) 462-6485.

Issued in Austin, Texas on February 10, 1989.

TRD-8901510 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: February 15, 1989

For further information, please call (512) 462-6420

◆ ◆ ◆
The Special Committee of Academic Officers will meet on Tuesday, February 21, 1989, from 10 a.m. till 4 p.m. The meeting will be held in Room 209 at the Bevington Reed Building, at 200 East Riverside Drive in Austin. For additional information contact the Texas Academic Skills Program (TASP) office at the Coordinating Board, (512) 462-6485.

Issued in Austin, Texas on February 10, 1989.

TRD-8901509 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: February 15, 1989

For further information, please call (512) 462-6420

◆ ◆ ◆
The subcommittee on Two-Year Colleges of the Part-Time Faculty Study Committee will meet on Thursday, February 16, 1989, at 9:30 a.m. The meeting will be held in Room 209 at the Bevington Reed Building at 200 East Riverside Drive in Austin. For additional information contact Cristina De La Fuente at (512) 462-6485.

Issued in Austin, Texas on February 10, 1989.

TRD-8901508 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: February 15, 1989

For further information, please call (512) 462-6420

◆ ◆ ◆
**Texas Department of Human Services
Request for Proposals**

The Texas Department of Human Services (TDHS) announces a request for proposals (RFP) to conduct a management study that would focus on the appropriateness and effectiveness of the current functions and administrative structure of the department. The request is filed under

Texas Civil Statutes, Article 6252-11c.

Description: The primary objectives of the management study are to examine the current functions and administrative structures at both state and regional levels; to identify impediments to the efficient and effective management of the agency; and to recommend needed improvements in the department's current functions, management processes, and administrative structure that would maximize the quality of service delivery and the efficient operation of the department.

Duration of Contract: Consultant work on the project should begin immediately following final execution of a consultant contract between the offeror selected and TDHS. All management study work, including delivery of a final management study report to TDHS, will be completed within six months of the effective date of the contract.

Limitations: Offers in excess of \$500,000 in professional fees and expenses will not be considered. Other limitations, terms, and conditions will be contained in the RFP.

Offeror's Conference: An offeror's conference will be held on March 9, 1989, at the Texas Department of Human Services, John H. Winters Human Services Center, 701 West 51st Street, Austin, at 10 a.m. in the Commissioner's Conference Room, Street Floor, West Tower. At this conference the RFP will be reviewed. Oral and written questions regarding the RFP will be answered at this meeting. However, oral answers are not binding and should be used only for information. The answers provided in this meeting will subsequently be reduced to writing and mailed to all offerors who requested an application. The answers will then be binding for all offerors.

Written Inquiries: All questions concerning the contents of the RFP, other than those presented at the offeror's conference, must be in writing and received by 5 p.m. on March 7, 1989, and sent to Murray A. Newman, Associate Commissioner for Strategic Management, Research, and Development; Texas Department of Human Services, Mail Code 230-E, P.O. Box 2960, Austin, Texas 78769.

Contact Person: RFP packets will be available on or after March 1, 1989. To request an RFP packet, contact Murray A. Newman, Associate Commissioner for Strategic Management, Research, and Development; Texas Department of Human Services, Mail Code 230-E, P.O. Box 2960, Austin, Texas 78769, (512) 450-3730.

Evaluation and Selection: Selection of the consultant will be based on demonstrated competence, experience, knowledge, and qualifications in the areas of service desired; reasonableness of the proposed fee for the consulting services; and extent to which the consulting services proposed accomplish the purpose and specifications of the RFP. All proposals received shall be subject to evaluation by a committee of qualified personnel to select the proposal which most clearly meets the requirements of the RFP.

Closing Date: Proposals must be received at the TDHS headquarters building at 701 West 51st Street by 5 p.m. on March 31, 1989.

Issued in Austin, Texas, on February 17, 1989.

TRD-8901567 Charles Stevenson
Acting Commissioner
Texas Department of Human Services

Filed: February 17, 1989.

For further information, please call: (512) 450-3765

**Texas State Library and Archives
Commission**

**Texas County Records Manual Review
Committee**

Notice is hereby given, pursuant to the Texas Government Code, Chapter 441, Subchapter F, for the purpose of accepting nominations for filling a vacancy on the review committee for the Texas County Records Manual.

Nominations will be accepted through March 20, 1989, for a county auditor to serve on the committee.

Nominations may be made by petition signed by at least 50 other county auditors or by an organization representing county auditors that has as members at least 50 of those officers.

Nominations may be sent to Raymond Hitt, Assistant State Librarian, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

Issued in Austin, Texas on February 15, 1989.

TRD-8901522 Raymond Hitt
Assistant State Librarian
Texas State Library

Filed: February 16, 1989

For further information, please call (512) 463-5440

◆ ◆ ◆
**Texas Water Commission
Request for Proposals**

The Texas Water Commission (TWC) announces that it wishes to retain the services of a consultant to perform remedial investigation/feasibility studies (RI/FS) for the Hall Street State Superfund Site located in Galveston County. Contingent upon approval by the TWC, the consultant's services may be extended to include follow-on architectural/engineering activities at the Hall Street Site if and when funds become available. This project will be conducted by the TWC pursuant to 31 Texas Administrative Code (TAC) §§335.341-335.346, concerning the hazardous waste facility assessment and remediation program, commonly referred to as State Superfund. These rules implement the requirements of the Solid Waste Disposal Act, §13, as amended by the 70th Legislature, 1987.

The TWC may negotiate with potentially responsible parties (PRP) to perform activities in this solicitation. Accordingly, all future TWC activities are subject to the outcome of those negotiations with the PRP.

Objectives. The objectives of the investigation and feasibility studies are to: characterize and identify the site in terms of wastes present; the lateral and vertical extent for contamination in surface waters, ground waters, sediments, and soils; the rate and direction of waste migration; target receptors (population at risk, threatened resources, sensi-

tive ecosystems); the site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion, and offer recommendations regarding the most feasible remedial alternatives.

Budget and Schedule. The maximum budget allowable will be consistent with the specific scope of work as determined by the TWC. Budgeted funds for the remedial investigation and feasibility studies are \$185,000. Approximately 10% of the amount will be considered as contingency funds.

Submittal Information. Microfiche copies of the relevant files are available through Sheldon Seibel, Records and Library Services Section, (512) 463-7831. A copy of the request for proposals (RFP) may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP to: Mr. Timothy Dobbs, Texas Water Commission, Hazardous and Solid Waste Division, 1700 North Congress Avenue, P.O. Box 13087, Austin, Texas 78711. Upon receipt, the TWC will transmit the RFP to the potential offeror by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP to the address listed in item one with a prepared self-addressed overnight or expedited delivery return envelope to accommodate approximately six pounds of 8 1/2" by 11" material; or in person with a signed letter of receipt at Room 513, Employees Retirement System Building, 18th and Brazos Streets, Austin.

Mr. Dobbs is the designated person to whom proposals may be made. Additional information may be obtained by calling (512) 463-7785. Five copies of each proposal must be received at the address listed in items one or three before 5 p. m., March 27, 1989, which is the closing date for offers. All statements submitted in response to this request must address the items as described in the RFP. Any and all information submitted by an offeror in variance with the RFP instructions will not be reviewed or evaluated. All contracting procedures shall be conducted in accordance with all applicable state laws.

Upon submittal, the proposals shall become the property of the State of Texas. The contents of the proposal shall be considered as a part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality. TWC reserves the rights to reject or return confidential information.

Issued in Austin, Texas on February 17, 1989.

TRD-8901558 James F. Haley
Director, Legal Division
Texas Water Commission

Filed: February 17, 1989

For further information, please call (512) 463-8055